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ABSTRACT

The main objective of the International Congress for Children was to underline the evolution in the concept of children, the idea that children are, above all, human beings and not just "human-beings-to-be." The 39 presentations are divided into 3 parts. The seven papers in the first part examine motives and strategies for children's rights. The motives are discussed from a historical and philosophical point of view, as well as from the viewpoint of developmental psychology. The strategies are discussed on the basis of exemplary cases. The 31 papers in the second part are inspired by 4 basic principles in the strategies for children's rights. The discussions cover child advocacy, the study of the child, the self-organization of children, the promotion of network development, and specific situations concerning the rights of children. The third part contains a synthesis of the congress that underlines the commitment and dedication with which people continue working for the rights of children. Most of the presentations include references. (TJQ)

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OMBUDSWORK FOR CHILDREN

A way of improving the position of children in society

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OMBUDSWORK FOR CHILDREN

E. Verhellen & F. Spiesschaert (eds.)

Ombudswork for children

A way of improving the position of children in society

Acco Leuven / Amersfoort

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INTRODUCTION - PREFACE

Prof. Dr. E. Verhellen

The present work contains the principal texts which were presented at the first International Congress on Ombudswork for Children, in Ghent (Belgium) in December 1987.
The large attendance and the great number of texts presented by the participants do not only testify to the success of the Intenational Congress, but especially to the universal interest in and curiosity about the social position of the child.

This curiosity may point to the existence of a more than vague suspicion that the position of the child is substantially changing. What exactly is changing and how has this come about ? Should something be done about it ? And if so, what, why and how? Indeed, this vague suspicion, this curiosity, which is so characteristic of the current interest in children, was one of the reasons for setting up this congress. In other words, it was designed to exchange information.

But there is more to it. The large number of participants indicates that people are conscious of the fact that something uncommon is afoot, that they are aware of the origins of the phenomenon, that they are prepared to do something about it, that they are willing to bring motives, strategies and methods up for discussion and that similar practical experience is being looked for. This interest constituted the second pillar of the congress: the will to provide a discussion platform. Moreover, the perspective of a second International Congress was held out for Amsterdam in 1990.

Not only the large attendance, but also the great diversity among the congress members, shows that the goals of the congress were achieved (diverse sectors, diverse professions, diverse disciplines, diverse practical and policy levels).

The main objective of this congress was to underline the evolution in the concept of children. Indeed, attention should not only be paid to the position of "children-as-children", but simultaneously and in a more substantial way to the position of "children-as-human-beings". It was this idea that children are above all human beings and not just "human-beings-to-be" which constituted the main subject of the congress week.

Since the "invention" of the child, a few centuries ago, and especially in this century, the century of the child, many efforts have been made to promote the position of the child-as-child, as part of a "distinct" social category. And indeed, in this field, there was and there still is a lot to be done. Take for instance the U.N. members states, which exert themselves to attain the goals advanced in the Declaration of the Rights of the Child, which was promulgated on 20 November 1959.

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Besides, more and more voices are heard in favour of equal treatment of children, because it is believed that children have more or less the same qualities as other people. Indeed, discrimination on the basis of age is highly problematic and not very obvious. Not only the rights of the child, which have set into motion the works of a system aimed at making the international Treaty more binding in its members, but also the universal human rights are highlighted.

As to the content, this work follows the clear and rigid structure of the congress.

In a first part, attention is paid to motives and strategies for human rights for children (E. Verhellen). These motives for rights of children are discussed from a historical (L. Dasberg) and a philosophical (L. Apostel) point of view. The matter is also considered from the viewpoint of developmental psychology (A. Skolnick). Strategies, however, are discussed on the basis of exemplary cases. On the one hand, we learn about the functioning of the Children's Defence Fund (Washington DC - USA). This is a privately owned centre promoting the the rights of children (J. Weill). On the other hand, there is the Norwegian parliamentary ombudsman for children which can be seen as an example of public intiative (M.G. Flekkoy). The same holds true for a Belgian initiative based on the principles of an ombudsman (F. Spiesschaert).

Most of the texts in the second part are inspired by four basic principles which can be found in the strategies for children's rights. More attention is paid to child advocacy, to the study of the child, the self-organization of children, to the promotion of network development and to specific situations concerning the rights of children. The reports which were published testify to the more than common interest in ombudswork for children.

M. De Langen has turned the proceedings of the congress into a temporary, but interesting synthesis. This underlines the commitment and dedication with which people continue working (human) rights of children.

We hope that this rich collection of texts will reach those people all over the world who want to get information on basic practice, policy and research and want to go into the development of a more just and democratic society. Because that is where the attention for children's rights derives its importance from in the first place.

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Part I :

Motives and strategies for children's rights

OMBUDSWORK FOR CHILDREN

A strategy for a fully-fledged position of children in our society

Eugeen Verhellen

The present status of the child has steadily become a topic of heated discussions over the past few decades. Children are not all that different from other people. Consequently, they are entitled to equal treatment. These beliefs are not new. But their explicit denomination as "the children right's movement" has certainly contributed to the emergence of a social awareness and consciousness of the problem. These beliefs are not as univocal as one may think and there are quite a number of differences to be pointed out.

This text is an attempt to bring some order into this diversity. First we would like to deal extensively with the "why", the motives for our plea for the defence of children's rights. Next we would like to outline the objectives and a number of strategies, or in other words the "how". Finally we will add a few words on ombudswork for children, because this umbrella notion can cover countless motives and strategies, something which showed clearly from the large number of contributions.

1. Motives

1.a. The adulto-centricity and the vulnerable position of children

"Voor onze ogen is de vrouw van concubine to menselijk wezen geworden. Eeuwenlang heeft zij zich geschikt in de haar opgedrongen rol en heeft ze een figuur uitgebeeld die gecreëerd is door de willekeur en het egoïsme van de man, die weigerde temidden van het volk de werkende vrouw te zien, zoals hij nog steeds niet ziet dat ook een kind werk verricht. Het kind heeft nog niet gesproken, het luistert nog steeds".[*] [1]

This quotation comes from the Polish Jewish paediatrician and educationalist Janusz Korckzak, and dates back to the beginning of this century. Today, at the end of the twentieth century (the century of the child), the child is still

---

[*] We witnessed the evolution of women from concubines into human beings. For centuries on end, they accepted a role that had been imposed on them and they impersonated a figure that had been created by the discretion and egoism of man, who refused to see admidst the people that women did work, just as he still does not see that children work as well. The child has not spoken yet, it is still listening.

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listening, but as yet, we believe that it would like to speak.
Or are we mistaken ?

"De kinderen en de jeugdigen, die in de meest letterlijke zin van het woord door de samenleving worden weggecijferd, houden de eer aan zichzelf : ze laten het afweten".[**] [2]

These are the words of Lea Dasberg, professor of historical pedagogics at the University of Amsterdam, in the epilogue of her famous booklet "Bringing up by keeping small".

We have chosen these quotations because they reveal some of the dominant characteristics of the prevailing ideas on our relation with children :

- the child is apparently not accepted (yet) as a fully-grown individual,
- the main trend in the evolution is one of wedging the children into a moratorium that is gradually becoming infinite,
- children are increasingly integrating this picture of themselves and are more and more acting accordingly,
- this whole process is not a natural but a cultural phenemenon : i.e. made by mankind !

It is the last characteristic is particular that provides the key to both the understanding of how the present situation has evolved like it is now and what the possibilities are to change our relation with children.

This is a good prospect. For although children are said to be less discriminated than they used to be -an evolution that is perceptible certainly on a micro-level and in a more intimate relation with children- this is in fact hardly noticeable on the structural, the overall level. We even appear to be doing terribly bad here in our relation with children. Recent reports on this situation have titles that do not beat about the bush : "Let's stop destroy children", "We destroy many children", "The contempted child", "Black Pedagogics", "Youngsters, jammed by policy", "Deceived children", etc.

We mentioned it a moment ago : "The child is still listening but as yet it would like to speak". In order to achieve this, we will have to throw off this -for children- unbearable yoke to which we refer as "adulto-centricity", this out of proportion ego-centricity of adults.

The harmful consequences of the ambitious anthropocentrism (man in the centre of the world) of Western man in particular become more visible each day. However, his indifference to these consequences is appaling.

[**] The children and the young ones, who are left out of our society in the most litteral sense of the term, keep the honour for themselves : they quit".

Moreover, the history of Western man has up untill now been characterized by dark periods caused by his relentless ethnocentrism. The attitude of the northern hemisphere towards the Third World countries speaks for itself. We notice the same kind of indifference to shocks (Sahel, the Islamic reveille, South Africa, ...). The casual nature of this encounters fierce opposition.

Macho-thinking in its turn, eliminates more than half the population. Here as well, the shocks have been "reasonably well absorbed". The balance is now slowly being redressed. [3]
The area of our relation with the younger generations has hitherto virtually not been shaken. The self-evidence of certain principles is easily passed on through education.
Yet adulto-centricity has made a qualitatively and quantitatively important part of the population play a secondary role.
Too little research has been carried out on adulto-centricity as a means of power. At first sight, this even seems a improper thing to do. Yet adults do not hold the absolute right to this power. This right is nothing but the result of specific duties : raising and protecting the (biologically immature) child who is in need of care. That is all. As a matter of fact, we find that, in combination with the ethnocentricity, this basic duty is blatantly neglected as far as the right for protection of children from the Third World is concerned (nourishment, clothing, health care).

We even do not have to look as far as the Third World. The figures on child abuse on our own continent start pointing in the same direction.

And all this in spite of the existence of a specific "Declaration of the Rights of the Child", which is of course nothing more than a declaration and therefore cannot impose the sanctioning of every violation of these rights.

So apparently something is wrong with the interpretation of this basic duty of "raising" and with the interpretation of the notion of "child". Perhaps the most typical example of our adulto-centricity are the many recent policy measures aimed at extending the exclusion of young people from active participation in society considerably.

It happened practically unnoticed and it seems to go without saying, though this evolution conceals a dangerous quality, yet unknown in history.
The existing moratorium, which prevents young people from making themselves heard, is not just being extended, it is being extended "beyond the limit" ! It is no longer an "intermediate stage that offers good prospects" (a stage which in our culture lost its ritual character a very long time ago), it has become something permanent, something infinite, with no prospects whatsoever ...

Children are no longer "temporarily" parked. Soon there will be no parking place left. This "pushing to the edge" of a whole generation of young people has been named as a completely new phenomenon in our culture : the "superfluous generation" [4]. And worst thing is, that this generation risks to be blamed of being superfluous, and for not creating prospects ... Talking about cynicism.

Enough about adulto-centricity and its possible effects on children. Many of us have experienced this sad reality and are already drawing their motivation from it to push through with changes.
But there are other realities that invite other kinds of motivation.

1.b. Ontology : the child is an individual !

This may begin to sound ackward, for an increasing number of reasons, but we simply cannot deny it : the child is an individual ! This ontological truth entitles the child to any right that is granted to other individuals. So in fact, children do not have to be granted rights, they already possess them.

It sometimes argued that children are "incomplete". But basically, every human being is incomplete. It is exactly this higher or lower degree of incompleteness of every individual that can create in-depth discussions, creativity, interdependence, culture, ...[5]

People differ in countless ways : there are differences of sex, age, ethnic differences, ..., but none of these differences justify, in whatever way, the unequal treatment of people.

Just like certain other groups of people, children have some additional rights, owing to their biological-physiological incompleteness. These preferentiel rights are sometimes called rights of protection.
It is the task of pedagogics, the study of our relation with children, to secure and to safeguard the observation of both the fundamental and the preferential rights. This is ethically imperative. So pedagogics is first of all a matter of human rights.

1.c. Theory : the child is qualitatively not so different.

However, the dominance of the positivistic scientific ideal, which has been historically determined, has lead to a situation where the child is not the subject but the object of scientific research (in some cases the child is not even involved, or not wanted).
The hypothetic deductive method which is part of this ideal implies among other things the fragmentation of the object of study (into an cognitive fragment, an emotional fragment, a moral fragment, a physical fragment) and its isolation from the context (the group of children, an individual child, ...).

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The logical result was that the child increasingly appeared as an "separate" being, who could not but distinguish itself from the adults. Arlene SKOLNICK[6] describes some basic assumptions that have lead to the emergence of the present notion of the child :

1. Children go through a number of stages that are qualitatively different from each other. This developing process is indispensable to reach full maturity.
2. Throughout these stages children are qualitatively different from adults :
- adults work and are responsible ;
  children play and are irresponsible ;
- adults are rational ; children are irrational and emotional;
- adults think in an abstract way ; children think in a concrete way ;
  adults are sexual ; children are asexual ;
- etc.

3. During their process of maturation, children have to live -separated from the adults- in places that have been specially designed for their evolution towards adulthood (at home, at school among other children, on "constructive" play-grounds, ...).

This quarantine may be gradually lifted as the child goes through a growing number of stages, but it is not to be lifted completely until it has reached adulthood.
The scientific method described above has still not ceased unravelling the differences between children and adults on the one hand and among children themselves on the other. Scientists are simply carrying on without bothering too much about the proper socio-ideological starting points and with the pretence of being objective and free from value judgements.

Children and adults thus become entrapped in a circle that reinforces itself : children are found to be different from adults and are therefore treated otherwise, which in turn emphasizes the differences, etc, ...

The notion of child that has resulted from this evolution does not correspond with the factual truth, with what the child is really like [7]. The child has not been the subject but the object of research. This has led to the denial, the oppression of the child's frame of reference and its interpretation of itself and the world.

If the existence of this proper nature is at all recognized, it is certainly rated inferior.

The true nature of children has become a black box, which, owing to its stereotype aspects, is practically locked for good. Some people are even afraid of opening it : Pandora's box ?

Less dominant scientific ideas have provided a radically different insight into our relation with children, entailing, as could be expected, radically different consequences for this relation [illegible].

The present stage of science being what it is, an interactionist formation of theory may shed a new light on this relation with children. Indeed, symbolic interactionism provides an insight into the course and the meaning of a number of basic processes in life [illegible]. Man, including the child, appears as a "meaning-maker" in these processes, and not merely as a re-acting but as an acting individual.

We learn for instance from this theory that people are very selective in the observation of their direct environment (i.e. the principle of indication) ; they take heed only of those things that can be related to their interests. This pragmatic basis explains for instance why people notice a particular phenomenon while overlooking the other.

This process of indication is qualitatively the same for children and adults, which means that at the same time it points to an inalienable right, both for children and adults, to bear a part in this process. This moment of free choice for children is presumably severely oppressed at a very young age so that adults lose touch with what is important for children.

The next phase in the process of interpretation in slightly more complicated, precisely because we are humans. People endow the phenomena registered with a specific meaning (one of many meanings possible). This choice is determined, once again, by their own interests. This process of interpretation is typically human. People are doing it all the time. Children as well. It is their inalienable right. This brings us also closer to the root of the mechanism of oppression. Some interpretations (of the same phenomenon) are valued more important than others and have therefore a good chance of becoming more dominant, although qualitatively speaking they are not.

In a more complex process of interaction among people themselves and between people and things, we build up a self-image, an identity. This so-called Self is the ever-increasing capacity to provide answers to questions such as : "Who am I ?", "Why am I who I am ?"

It is typically human to determine one's point of view towards oneself. A man's ideas about himself are mainly inspired by the way in which he experiences other people's judgements on him. In order to judge themselves, people, including children, apply a process of self-alienation, called role-taking (cf. Romanticism). They thus put themselves in the position of the other and adopt his point of view to look at themselves. In other words, our identity is the result of adopting other people's stands regarding our person (MEAD).

This movement is essentially interactionist, because people put themselves into the mind of other people and reflect on their own person from that point of view. So, the Self emanates from interaction, from an action that we perform. Any of these actions is pragmatic, i.e. it has a practical use for our position, for our aims and our interests.

Originally the Self is rather vague. The consecutive developmental phases give it the beginning of a structure. This means that in a later stage, the process of role-taking, originally in interaction with meaningful others and closely related to specific situations, takes place in situations with more than one meaningful other. The individual then has to place himself in several roles (and several positions). His behaviour is no longer geared to one specific other, but to the generalized other. This is how values, standards and meanings become internationalised.
Essentially, the Self is social construction, which is responsible for our position, our expectations and our intentions in interactionist situations with the specific and the generalized other.

The process of role-taking is deepened by considering its outcome as just one out of many answers to the expectations of the other. This is a consequence of the (above mentioned) intermediation processes of indication (by which people turn their attention to specific -because personally important- elements in a situation) and interpretation (by which people endow those elements that have attracted their attention with a specific -because personally important- elements in a situation) and interpretation (by which people endow those elements that have attracted their attention with a specific- because personally important- meaning).
Man, including the child, appears in this process as a "meaning-maker" and not just as a "re-actor" but as a genuine "actor".

Moreover, he makes his position not only dependent upon the other, he is also eager to play his own part (role-making). As these processes of role-taking and role-making are mutually dependent, interactionist processes become relatively autonomous ; they develop in their own way ; they are governed by their own logical structure. One of their basic features is "Einmaligkeit". This proves that "behaviour" cannot be assessed objectively from outside his context (as prevailing scientific theories pretend).

As a counterpart for the static society, interactionism advances a changing and pluralist society. Social order is established through the mechanism of role-taking. The generalized other is a reference to this.
The significant symbols, shared by several people, refer to a working consensus, a consensus that originates from a never-ending process of negotiation. That is how a negotiated order comes into existence. It is the result of interactionist situations where the participants make concessions in order to try and achieve a manageable definition.

Participants in interactionist situations are constantly reshaping the basis of the social order.
That is why great store should be put on the changeability and the diversity of our society. One can simply not start from the idea of a supposed "general consensus".

All this leads us the conclusion that an interactionist process is also an attempt to force the other to accept "one's own definition" of a particular situation (the elements that one has noted and interpreted) and to impose one's role in this situation. Interactionist processes can therefore be considered as inherently discordant situations, where the people involved make use of the means they have at their disposal to build up strategies that are apt to impose their own definitions onto the other. In other words, every interaction is significant (even insignificance is significant). The interests of different people are evidently not the same.
The notion of "power" is therefore an essential part of interactionist situations. The danger of oppression is permanently present. In view of the adultocentricity, this danger is the most threatening are for children.

These problems of definition as we have just discussed, have received special attention in interactionism. There is for instance Thomas' interesting theorem that "If men define situations as real, they are real in their consequences" [10]. Or to put it in another way : people are living and working in many, constantly changing situations that are permanently "defined as real", with the result that they will act in accordance with this reality thus helping these situations become real.

It is evident that if adults keep using their power to make their definitions dominant by oppressing (or at least considering as inferior) the child's potential to give meaning, they are heavily damaging the child's identity. And, what is worse, they help define a particular image of the child that is slowly rooting in the social institutions and structures and is becoming part of "social reality".

Yet a moment ago we demonstrated that what we refer to as "social reality", is in fact a social construction ; it emanates, in interactions between people, from the process of giving meaning to a certain kind of behaviour. [11]
Typifications occur when this behaviour starts showing a routine -or even a virtually compulsive- character. This routine behaviour, which has crystallized for instance in our language, is thus given an objective meaning.

As a result of this, social reality, with its objective meanings, finds its expression in language, in material objects and institutions. They reflect the so-called "common stock" of knowledge about reality. Our behaviour seems to correspond with preset structures. We move inside a reality that looks real and fixed (e.g. our attitude towards children). All people within this reality seem to behave in the same way. They obviously give it all the same meaning : it is "the" reality, "the" common sense.
It is precisely this complex mechanism of objectification which makes people forget that this reality has been historically determined, that it is an artificial and man-made reality. People also tend to overlook that, in spite of the existence of such a reality, the creative process still continues.

Defining situations from the point of view of one particular interpretation (while ignoring so many others) comes right down to assigning positions, to which the process of objectification gives a natural, evident and invariable look.

Once the situations have been defined and the positions assigned, they act as guidelines for the shape and the contents of the present and future interactions (even for previous interactions, which leads to an imbalanced interpretation of history : "it has always been like that" - retrospective interpretation).
The child is a spawn of history, and this assignment of positions is responsible for it.

1.d. History : the invention of the child because it was important.

The child has not been "invented" -as this frequently heard and commonly accepted-on the basis of its physical differences such as sexual immaturity, small stature, limited physical strenght, ... (it is precisely because of these features that they used to be disregarded).

On the contrary, historians have revealed that it is the social developments of the last few centuries in particular that are responsible for this radical and general separation between children and adults. [12]
In other words, it was not until a certain period in Western history that children were considered as a "socially separated category".

At the end of the Middle Ages, only a slight discrimination between children and adults was perceptible. It was during the Enlightenment, embued with faith in the omnipotence of Reason, that the seeds of the ideology of progress began to germinate. It was an age which conceived an image of man as an individual in the service of "progress". Under the constraint of "the future", the actual well-being of individuals came to be disregarded and negated in favour of future well-being. This was certainly true of children. Indeed, a view like this one will tend to refer to children as "the future", "tomorrow's wealth", for children will help shape the "enlightened" society to come.

Gradually the assignment of positions started to dominate the relation with children. This newly created category of people was of course confronted with completely new expectations, new standards and roles, which were visualized in a number of social structures. Systems of protection and prevention were devised and put into practice. It was not a coincidence that all over our Western world, child protection legislation emerged round the turn of the century.
Concurrently, the first acts on education were passed (the "investment" of tomorrow's wealth).

With every new initiative children were pushed further back in a position of "yet-to-come" : responsibility yet-to-come, maturity yet-to-come. This situation is no longer based on their sexual immaturity, as it used to be, but on social criteria. Their master status is "experience and ability yet-to-come", their well-being is a "well-being-yet-to-come".

This socio-historical assignment of positions helps us to get a better understanding of the reasons for the absence of children's rights in our society, except in those few cases where they fit in with man's picture of himself and society.

It also explains why children are so poorly equipped, with respect to both the number of children's rights and their content, and why children lack the legal remedies and structures to enforce or to extend the few rights they have. Is it surprising that our society can get away with murder, as long as it is child-murder ?

Also the indifference to the problems of our relation with children finds its origin in this assignment of positions. A number of phenomena are simply ignored or tolerated with a shrug. Attempts to solve these problems are rarely made -and in some cases even thwarted-, partly because the mechanism of objectification neutralizes shocks (our relation with children has become so evident that we are almost ashamed to doubt it), but even more because the artificially created image of the child admits such a course of (non-?) action.

2. Strategies

The main feature of this historically grown status of children is the absence of virtually all civil rights. Children are denied, both philosophically and legally, the right to determine their own lives. Powerlessness is the principal characteristic of their situation : they do not have the right to control their lives freely, which comes down to the basic feature of slavery. [13]

It is therefore not surprising to see that several "actors" from a wide range of fields are trying to turn this status of children into an actual topic. This diversity is sometimes referred to as the "children's rights movement".

Their chief demand is that children should be granted all basic civil rights, as well as the right to assert these rights independently. [14]
In other words, what counts is the recognition of the autonomy and the right to self-determination of children and the recognition of their being fully-fledged legal persons. [15]

The starting point, rather than the goal, underlying this demand is the equality of men, regardless of age. [16] However, the idea is not to treat children and adults in the same way, but to guarantee children that they can be themselves. It is considered very important that the needs and the qualities of children should be recognized, and not violated to protect the interests of other individuals.[17]

At the moment, our society has the habit of removing or isolating children from situations which present a genuine danger or in which their needs can not be fulfilled. It would be preferable, however, to alter these situations or to provide whatever means necessary to be able to fulfil the needs of children, thus assuring that they can remain present and that their rights of freedom and their rights as persons are respected. [18]

The children's rights movement is therefore strongly convinced that the liberation of children will have a liberating effect on all members of society. That is the reason why the movement feels it is urgently necessary to try and do away with the huge barriers separating the worlds of different age groups. [19]

The children's rights movement also devotes itself to the recognition of the right of participation for children. Children should have the right to participate in determining their own living conditions and in shaping society. Therefore, they should be given access to the means and the structures which enable them to do so.[20]

The right to participate in democratic policy-making processes, the right to self-determination and the right to assert these rights independently are the main pillars of human rights. Therefore human rights form an essential point of contact with children's rights movement.

Some say that the recognition of the fact that human rights apply equally to children and to adults should be regarded as complementary to, and not contrary to, the striving of the youth protection movement for meeting the specific needs of children. [21] They feel, however, that it is necessary to translate these specific needs into preferential rights for children, rights which would then be actually enforcable. The universal declaration of the rights of the child has always played a key role in this respect. There are for that matter great expectations for the approval by the UN's General Assembly of a Convention on the rights of the child, 30 years after the approval of the Declaration of Human Rights.[22] At any rate, there is a general consensus on the need of a certain degree of protection of children who are being exploited by unscrupulous individuals, organizations and states. This protection can be guaranteed, not by denying children the right to make choices independently, but by providing freedom of choice combined with a special kind of concern and care for the quality of the different options (the alternatives). An example, would be to fight and prevent manifestations of coercion or exploitation due to the age of the person involved. Protection as such is not considered wrong : every individual has a need for some kind of protection in one area or other. What is considered to be wrong is the introduction of a system of protection based on the distinction between different age groups, since such a system ignores the qualities of the people involved and therefore often produces an opposite effect.[23] These negative effects have everything to do with the categorial approach to problems. Children may not be the sole victims of our society's preference to approach problems categorially (think about the aged for instance), they certainly rank among the most severely hit categories.

2.a. The discussion on competence

However, the ideological and scientific discussion on children's rights has been mainly situated at a more pragmatic level.
The idea that children should have rights of their own (i.e. the principle of substantive law) has gradually become accepted by a fairly broad public. Especially in the 70s there was little discussion about the view that children possess the same personal rights as adults.
In contrast, an issue that is still under discussion today is the question whether or not children are able, and hence entitled, to assert these rights independently. This is the area of procedural law, i.e. the right to assert the substantive law provisions. The key notion in this discussion is "competence".

Indeed, the ever-returning, fundamental argument for denying children their autonomy and their rights, is their alleged incompetence to make conscious decisions. In this view, children are not only physically, but also intellectually and emotionally labelled immature. Moreover, they lack the expierience required to be able to determine what is good for them and what is not.

Yet, the children's rights movement has made great efforts to try and refute these arguments, by challenging their validity, their relevance and their appropriateness.

First of all, the "validity" of the arguments is challenged. "The competence of adults" for instance is not accepted as a valid argument. Even when adults turn out to be incompetent in certain areas, their competence is considered to be potentially present. If we broaden this line of reasoning to children, the arguments for their inferiority and their obedience do no longer hold. Even in the case of capacities yet to be acquired or developed, the question which then acquires central focus is to know what is morally preferable : freedom or inferiority ?[24]
The small number of research results available on this subject have revealed that the experience to be allowed to make one's own decisions (i.e. autonomy) results in a higher degree of consciousness of one's own influence (the capacity to influence), that this experience facilitates moral development and adaption to the standards laid down by law, diminishes recalcitrance and increases the competitive spirit. The pros of considering children as fully-fledged individuals definitely outweigh the cons -as far as they exist- resulting from "bad" decisions made by immature children.[25]

Secondly, the children's rights movement disputes the relevance of the argument of incompetence, since the official recognition of a person as fully-fledged individual, expressed in the notion of legal age, does not coincide at all with the attainment of so-called full maturity. In this context, references are often made to phenomena such as the expansion of adolescence and the moratorium on young people's active participation in society.[26]

Finally, the movement seriously doubts the appropriateness of the argument of incompetence. It is accepted at the very most that the argument is valid for very young children. But if they lack the competence to assert their rights, their should be no problem in granting them these rights, as they would be unable to apply them anyway.[27] And surely, this can be no reason for denying them the right to be consulted or to be kept informed of important decisions regarding their lives. Neither can it be a justification for not representing them in situations where children and adults have different interests.[28]
Besides these negative arguments, there are also positive arguments, which plea in favor of the children's competence. Ever since Jean PIAGET carried out his experiments, it has been beyond any doubt that children have basic intellectual and moral capacities at a very young age. From as early as the age of 12 onwards, their decision-making can be called complex so that from then on, a qualitative distinction between children and adults can hardly be made any longer.[29] Moreover, it has been demonstrated that, in addition to laboratory tests, the observation of children in everyday situations reveals more about their competence, than traditional literature generally suggests ; adults as well were found to reach the highest levels of moral and cognitive functioning only in the most familiar of situations.[30]
Contrary to the prevailing opinion, children present themselves psychologically much less incapable of self-determination. Also physically and socially, children can survive at a much lower age than expected. In everyday life, they testify to much more resistance, strenght and will power than "theoretically" considered possible. This is clearly perceptible in wartime situations or subsequently to serious disasters. There are numerous descriptions in literature of autonomous societies of children which came into existence in a recent past as a result of natural disasters or civil wars.[31] On the basis of this and other information, some people even pretend that child protection is a pastime activity.[32]
But also today, and undel less extreme circumstances, children contribute in a substantial way to the functioning of our society. They do so by working, fulfilling their military service, bearing children and bringing them up, and by looking after the younger and ealderly members of the family. Although their working conditions are far from being perfect, the general impression is that they are not doing too bas.[33] Even in daily judicial matters (such as buying and selling), the recognition of the competence of children is visible. Taking all this practical experience into account, the children's rights movement truly regrets that children are still not regarded and studied as fully-fledged partners in our society. What children precisely are or what it is that they know or can do, remains a black box, and this situation reinforces

the presence of the argument of incompetence in the discussion.

Nevertheless, the most striking feature of this discussion on competence, at an underlying level, should be that the recognition of self-determination for children is essential IN ORDER TO make them more competent, and not vice verso. It is not because they are (little by little) becoming more competent that their right for self-determination must be (gradually) recognized.

2.b. Trends within the children's rights movement

All this may cause one to think that the children's rights movement is a monolithic unit, but in fact there is a great diversity of ideas. Depending on the position taken in the discussion on competence, several trends can be distinguished :

- the reformist trend
First of all, there is a trend which basically considers the argument of incompetence to be valid, but which is convinced that our society is heavily underestimating the children's competence to make rational and conscious decisions. This trend firmly believes that such a competence is acquired at a much younger age than nowadays accepted, and that this process is a gradual one. These ideas form the basis of their plea to bring down the legal age and to grant children their rights gradually.

- the radical trend
The children's liberationists for their part challenge the validity of the argument of incompetence on ethical grounds. Their starting point (the highest moral standard) is the equality of man. Any discrimination, including discrimination based on age differences, is in their opinion to be morally condemned. The only possible solution to the problem for them is to grant all human and civil rights to children as well as to adults.[34]

- the pragmatic trend
The pragmatic trend is becoming more and more important and wonders which could be the practical reasons for not granting children all civil rights and the right to assert them independently. They feel there are no such reasons, except for the case where a child's incompetence to assert specific rights can clearly be demonstrated and is not objected to by any group in society. This is the principle of children enjoying all their rights except in certain cases. As to adults, a similar approach has proved to be perfectly well possible. The great advantage of this approach over the present-day system would be that the burden of proof in the discussion on competence is taken off the children's shoulders. At the moment, the position of children is exactly the opposite (and therefore very weak), since the burden to proof that they are entitled to self-determination lies completely on their side. This is the principle of children enjoying no rights except in certain cases. This explains why so many rights of children

are translated into obligations (e.g. the right to learn and go to school becomes compulsory education).

2.c. The movement's strategies

The strategies used by the children's rights movement to accomplish the goals it has set, could be summarized as follows :

1. CHILD-ADVOCACY

Child-advocacy is by far the most important strategy. Within the context of the children's rights movement, it is aimed at changing social systems, institutions and structures in order to maximize the children's possibilities of self-determination. This particular kind of advocacy understandably bears upon those living conditions in society that are an impediment to the optimal functioning of children. The basic idea of this strategy is that no effort whatsoever can produce a lasting result when it is made to benefit an individual child. Structural changes are considered imperative, and this is exactly what child-advocacy is all about. It is this special meaning of child-advocacy that has become a key notion in the children's rights movement.
Very soon, the notion began to gain acceptance outside the children's rights movement, and it acquired other meanings : ordinary assistance received the label of child-advocacy as well and actions taken for the benefit of individual children were now also referred to with the same term.[35]

The consequence of this re-definition of the concept has been the emergence of a number of new aims.

For instance people started showing interest in the relation between children and the "tools" that had been created for their support. The idea was to gear this system of assistance to the children's needs in a more effective way. First of all these needs were translated into rights. The next step was to make sure that these rights were recognized and made legally binding.[36]

The strategies in child-advocacy to trigger changes are the following [37] :

- campaingning against some persistent and wrongful myths regarding children ;
- putting existing abuses on file ;
- advising policymakers ;
- supporting local initiatives ;
- influencing the lawmaking bodies actively, by taking legal steps (litigation, legal advocacy) ensuring that the most vulnerable and discrimated groups of children -who are most easily forgotten- can share in the achievements of the children's rights movement.

A special form of action, which constitutes an essential part of the U.S. advocacy activities, is the so-called class-action-litigation. This strategy bands a small number of plaintiffs who denounce a particular practice, policy or law which they feel to be unjust, not only for themselves, but for a whole class of people in a similar situation. If they can win a class-action case (i.e. when a whole list of conditions have completely been fulfilled), the court's decision becomes valid for all members of this class. (The recognition of the right of education for all people, including the heavily disabled, and of the government's duty to provide for such a kind of education has for the greater part been the realization of the class-action-movement).[38]

The introduction by the Norwegian parliament of an "ombudsman for children", back in 1981, has certainly not passed unnoticed. Using individual complaints to take general action and having the competence to deal with both public and private matters, the institution leaves no stone unturned to improve the position of the children.[39] A similar approach, but integrated within all political parties, is now under consideration in the Federal Republic of Germany.[40]

2. THE STUDY OF THE CHILD

The children's rights movement has gradually become aware of the necessity to acquire a better insight into the views, the needs and the ideas of children [41]. as this is an area we know in fact very little about. Indeed, when the socialisation of children is regarded as a process of learning how to grow up and how to adapt to society, researchers have to study the child's nature and activities in everyday life, as far of course as this is related to the pedagogic aims that have been set. Only when they try to understand the children's view of the world, researchers can make a genuine contribution to the expansion of a body of children's rights that makes allowances for the needs of the children and those of society. The study of the children's own perspectives is therefore thought to be the most valuable contribution possible to support the conceptual expansion of a framework of children's rights that would be based on rights instead of needs.[42]

3. SELF-ORGANISATION OF CHILDREN

The children's rights movement feels that up to the present day too much emphasis has been laid on specific problems of specific groups of children. It is (thought to be) high time to focus on the more common basis of experience of all children in society. Highlighting the common interests of children is perhaps one of the best possible ways to combine the forces of the children themselves (self-organization)[43]

4. THE DEVELOPMENT OF A NETWORK

A final -but equally important- strategy for the children's rights is to connect different people and organizations with similar ideas. Although their goals may be very much alike, they often appear to be relatively isolated in their striving for social changes, because they work on different levels or in different fields.[44]

3. Ombudswork for children

Our decision to opt for the word "ombudswork" as an umbrella term, covering both motives and strategies for furthering the position of children in our society, has its reasons. The term sounds familiar and is rightly associated with the Scandinavian institute "Ombudsman".[45]

The first ombudsman was set up in Sweden in 1809. Its chief objective was to be a safeguard for the citizens' general and individual rights against the misuse of government power. The institute was a reaction against growing centralist tendencies and the ensuing excessive powers for the government and the king.

Indeed, the traditional legal system in Sweden has always been characterized by a deeply-rooted respect for the individual and all his rights.

The notion of ombudsman was spread by professor HURWITZ, the first Danish ombudsman who was installed in 1954.

The basic features of this institute could be summarized as follows :
1. the institute is an instrument of the legislative power, but it functions totally independently. It is answerable in the most general way to the legislator only and has no connections whatsoever with the executive.

2. It has virtually unlimited investigative power and access to any document related to a case.

3. the immediate cause for the ombudsman to deal with a matter is most frequently a complaint lodged by an individual. However, he can express his opinion on all government actions by virtue of his office.

4. the Swedish ombudsman is the only one to be entitled to institute legal proceedings. Most ombudsmen do not have this coercive power, but they do exert strong influence on the basis of the authority vested in them.

5. dealing with an individual complaint (investigating supposed errors made in the past) is not aimed at discovering individual mistakes, but at ensuring they do not re-occur in future.

6. the ombudsman will always phrase his decisions with great care.

As the idea of "ombudsman" slowly spread, an inflation of the notion became clearly perceptible.[46] Its meaning has become too popular ; today the word is used to refer to any citizen's defender, grievance man or public watchdog.

In such a context, ombudsmen are dealing too often with (mostly) isolated aspects of a more general problem, which makes legal proceedings too expensive or time-consuming (cf. the ombudsman service of a consumers'organization).

Several private initiatives and ombudsman services within larger organizations are modelled after this narrow concept of an ombudsman. This obviously cripples its independence and what is more, the influence of the institution is no longer based on its authority but on the goodwill of the bodies to be influenced.

Moreover, children -as a factor of influence- are often completely absent from the policymaking level in a large number of areas which basically relate to them. Most of the time they are the object instead of the subject in this process of policymaking. A growing presence of this factor "child" could improve the quality of life substantially, for children as well as for adults. The restricted concept of ombudsman (some children, some problems, some sectors, ...) seems to have little value in this context.
An authoritative institution, with a basically critical function, might be an important drive towards a society where children as fully-fledged subjects are not constantly relegated to the background.
It is now being examined if this function requires a new organization to be set up, or whether it can be integrated into an existing, authoritative one.
In this sense, our using the term "ombudswork" is not a further deviation of its original meaning, but an attempt to revalue it.
Bearing this in mind, it can be an important help to achieve the ultimate goal of bringing children back into society.

Notes

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3. Belgian women were for instance enfranchised in 1948, which is only 20 years ago.

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8. It is common knowledge that, although the above mentioned pedagogic mainstream had far-reaching consequences for the way in which children were generally dealt with, there were also a number of trends that clearly defended a different point of view and that did not disappear until far in the twentieth century.
From J.J. Rousseau onwards, over J. Dewey, A.S. Neill and G. Korczak to P. Goodman, C. Rogers, W. Reick, J. Holt and R. Farson, there was not only strong criticism of the alleged hostility of the positioning of children in the mainstream pedagogic theory, but also a forceful movement for the defence of the proper frame of reference of children.

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WHAT IS A CHILD AND WHAT ARE ITS RIGHTS

Lea Dasberg

Speaking about the rights of the child in society we are, as a matter of fact, speaking about three non-existing notions, -child, right, society - because non of them are static phenomena, but changing according to historical time, geographical environment, local culture and social-economic conditions.

I. "The" child, as a static phenomenon, is a fiction. The period of childhood is of a very fluctuating duration when we compare different historical times, as well as different cultures and different social classes in one and the same historical period. The duration of childhood can vary from a period of only the first five years of life (Middle Ages, Latin America's proletariate now), up to the age of twenty-five (graduate middle class in the western world now). This truth is still insufficiently recognized in education. Whereas educational psychology recognizes developmental differences according to age (infant, schoolchild, adolescent, etc.), differences of character and temperament, as well as of inborn individuality, it still does not pay enough attention to the differences of social class, the type of society (agricultural, industrial) and the cultural environment the child is born and growing up in. Now, if "the" child is a fiction, how can we make uniform regulations for its wellbeing ?

In my book [1] about the history of the child in the western world I showed how, in Antiquity, in Medieval Times and up to the Enlightenment and even throughout the Industrial Revolution, a human being from the age about six years had to participate in the tasks and duties of the adults. This young human being had its responsibilities for the earning of its family's daily bread, be it by means of fishing, hunting, agriculture of shopkeeping, as well as looking for after the younger children, cleaning, woodcutting and water carrying.

From the Renaissance up to the twentieth century, daughters of agricultural labourers were, usually from the age of ten, sent into the houses of wealthy people to serve as a maid [2]. Nineteenth century Neeltje Doff of the Amsterdam proletariate had to feed her starving little brothers and sisters by entering

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[*] When asked to deliver this paper I recommended to invite in my place Philip E. Veerman M.A. who is doing research for the university of Amsterdam about the Rights of the Child and the Changing Image of Childhood, planned to be published in 1989. Where I in this paper will link my own special field, the changing image of childhood, with the issue of the rights of children, I will gratefully and respectfully refer to Veerman's findings.

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prostitution while still a pubescent [3]. But not only the poor were burdened with a childhood that, according to our criteria, was very unchildlike. A son of a medieval nobleman was sent away from home at the age of about seven to be trained to become a knight at the court of a befriended nobleman. William II of Orange, growing up in the 17th century, had to fullfil his dynastic responsibilities by marrying at the age of thirteen the Englisch princess Mary Stuart, herself only a girl of eleven [4]. In those centuries society's concept of childhood was absolutely different from ours today.

While these are historical facts in the western world, we know that situations like these are very common nowadays in the socalled Third World. The question is : are people, how young they may be, who are already responsible for their own livelihood, still children ? Are those who entered motherhood, although they are still in their early teens, to be counted among the children ? Is a young guerilla fighter of fifteen, who went through all the horrors of bloody campaigns, still a child ? How can we strife after a clear formulation of the rights of children as long as a general, accepted definition of childhood is lacking ?

In my above mentioned book I defined childhood not as a fixed period in man's life but as a specific situation of life, being the situation of not yet having left the protecting environment [5]. That could be the parental home, an orphanage, a boarding school or whatever environment taking care of food, clothing, teaching, insurance and so on. This definition of childhood was very useful to compare children in different historical times. Now that we have to discuss the possibilities of establishing generally accepted rights for children in our time, this definition would have a status-quo-accepting effect. The majority of western youngsters, mostly de facto already under the protection of generally accepted gentleman's agreements, would benefit by the legal codification of these agreements as rights, whereas millions of children in the Third World, who left the protecting environment already as toddler or never had anything of the kind, would be excluded from them. So we have to find a definition of childhood that includes all of those we want to protect.

II. "Right" is as much a fluctuable norm as "the" child. In legal history rights mostly were written down as formal laws long after the existence of such laws as "coutume" or common laws in daily life. So there were always long periods during which a formal law was contradicting the popularly accepted "coutumes". Besides, what was accepted as justice by common consensus in one time and in one culture, was felt as an utter injustice in another time or in another environment at the same time. If we can't find one generally accepted objective norm as justice, then how can we make uniform regulations for people's wellbeing, including that of children ?

There are lots of examples of this changing concept of justice in history and in nowaday's actuality. When in the 16th century the Emperor Charles V made an exception for children with regard to the prohibition of beggary [6]. this was meant as a privilege and so it was felt by public opinion. We, in our time, rather abhor from this fact than that we are ready to appreciate it. To give children the freedom to roam the streets and beg for their daily bread is, according to the juridical criteria of our time, nothing but ultimate injustice. In the sixteenth century, however, it was the only possibility for thousands of parentless and homeless children to survive. To grant them freedom of punishment while begging was, in that social setting, a really merciful privilege, a right pursuing social justice.

We see the fluctuation of the concept of right and justice very clearly in the popular reactions to the legislation on child labour. Where righteous people from the wealthy classes like Robert Owen, whose children did not have to work but could receive a good school education instead, reached the conclusion that all children should have that privilege and that child labour should be abolished [7] the labourers of that time themselves first protested fiercely against prohibition of child labour, claiming it was their "right" not to be bereaved of the few pennies their children could contribute to the family's income which was insufficient anyhow.

Only after the complementation of this law by the law on compulsary education, paid by the State, with additional rights like school milk and school meals, proletarian parents started to appreciate the prohibition of child labour as a right. The fact that the withdrawal of the children from the factories brought the adults the victory in their struggle for an eight hours work day strengthened this appreciation. In our time, however, let's say, since the glorious Sixties, youngsters themselves started to feel the prohibition of child labour as an impediment on their freedom and by way of a kind of creeping annexation conquered little jobs like delivering newspapers and all kinds of temporary work during vacations. So, contrary to the adults, who established the right of exemption from labour for children and youngsters, these children and youngsters claimed for themselves the right to work and to earn money. The question is : which of these two contradicting rights about child labour do we have to pursue ?

We see a similar contradiction with regard to school education. Where Luther and Comenius in the Sixteenth and seventeenth centuries pleaded in vain for the right for every child to go to school, this right, when finally materialized at the start of the 20th century, was, remarkably enough, not formulated as a right but as a duty ! [8]

Compulsory education was a "duty of parents to send their children to school", not the "right of children to become schooled and well-trained people who would have more perspective in life", although this was surely the main aim of the law. Neither in the feeling of children themselves was it - or is it ! - a right? It is to us, educationalists, a shame that children feel school more as a burden rather than a right. It seems to be these feelings that have been interpreted by scholars like Reimer in his "School is Dead" [9] Ivan Illich in his "Deschooling Society" [10] and Foucault in his vision about school as "Birth of the Prison" [11]. All of them describe school education as not-childlike, cruel, alienating from life, and as a system of control and oppression, to select people on behalf of the purposes of the State rather than to develop them according to their own wishes and natural inclinations. Far from seeing compulsory education as a right pursuing social justice, they see it as a real compulsion, not only to parents, but also, and even more, to children.

Contrary to this, however, is that in recent times and especially since the Sixties adolescents demonstrated for cheeper advanced studies for everybody, or even wanted them to be free of charge at all, and claimed a right on adult education for those who did not get enough opportunities to get a school education in their youth, especially women and people from lower social strata, as well as the right of permanent education for everyone. These students see training, instruction and education as a right that should be granted to everybody. The question is which right is more righteous and pursues more social justice : schooling or deschooling society ?

The last fifty years the safety of the child has been confronted with a new treat, namely the widespread phenomenon of divorcing and divorced parents. At first the world of the adults at first focused more on the rights of the parents than on the rights of the children in such a situation. For instance, which parent had the right to keep the children or how to divide the children or how to regulate a schedule of visiting them. Afterwards, claims were uttered that the child itself should have a right to choose at which parent's home it wanted to live. At the same time, however, educationalists and psychologists warned for the possible negative consequences of granting a child such a right. What if the child became burdened by feelings of guilt towards the parent it rejected, and what if its feelings towards both parents were of an equal loyality so that it did not know what to do with that right and became desperate or even suicidal [12] ? These educationalists and psychologists condemmed this right as a violation of the child's right not to become burdened by problems and responsibilities of the adults.

With regard to such questions Veerman analysed the discussions between the so-called kiddy-libbers, like Cohen, Farson and Holt and their adversaries. As a man in the middle between the extremes, Wald wrote : "Many restrictions are undoubtedly sound. Children are not adults in their abilities, judgement, or work capacity. Adequate preparation for participation in society may require a period of forced learning. This does not mean that existing age lines are sensible" [13]. The question is which of these two rights, the right to chose or the right to be freed from adult decisions, is more righteous and grants the child more justice ?

One of the first persons to demand more rights for children was Ellen Key in her book "The Century of the Child" that appeared in 1900. She even spoke about the child's right to choose its own parents, [14] a quite criptic formulation for a kind of genetic hygiene. She demanded of young couples to investigate the hereditary qualities of both families and to abstain from procreation in case their inquiry would show them hereditary illnesses or shortcomings. In that case she expected them to give up their happiness - parenthood - in behalf of the next generation. For us, having experienced the extreme Social Darwinism of Nazi time, the plea is somehow frightening, but we have to take into consideration that she could not know what the "Century of the Child" was heading for. Anyhow, rereading her plea that the child should have a right to choose its own parents, started to ring a bell when, recently, I followed the developments of new genetic findings with regard to alternative possibilities of procreation, for instance : artificial insemination, test-tube-babies, pregnancies for sale and the phenomenon of unmarried mothers. In all these cases, people claim a right to motherhood or fatherhood, but the discussion about the right of the child has barely not yet started yet. Because of the very primal state of these developments, research about the psychological consequences in later life for children born in one of these alternative ways are not yet available. So we are really acting blindly. Or nearly blindly, because children who, through death or early divorce, lacked the conscious acquaintance with their father or mother, is an older phenomenon that has been researched, as well as the experiences of orphans. These cases of children who, by fate, were deprived at a prim age of one or both biological parents, should at least arouse the question whether or not it is desirable to burden a child willingly witch such a deprivation from the very beginning of its Artificial insemination was already practised two hundred years ago, although here, in the Low Countries, it didn't occure untill 1948 [15] and those cases in which the donor of the sperm was not the same as the husband of the mother who fathered the child in daily life, could be studied and could inform us about the pro's and contra's of such alternative parenthood. It should be a right of the coming generation that such research should be done and taken seriously.

Anyhow, one thing is already made unmistakably clear by recent research, namely that in many cases unfamilarity with one's roots in many cases causes serious identity crises. Keilson did convincing research [16] about the development of people, who, as babies of Jewish parents, were trusted to non-Jewish foster parents. In the cases of those who were already separated from their parents at the age of 0 to 18 months, who never got to know their real parents and consequently could not have any remembrance of them, who sometimes did not even know their first name, serious identity crises started when the child approached puberty. Somtimes this also happened in cases of very good relations with the foster parents, for whom, after all their loving care for the child, its troubles concerning identity were not easy to swallow [17]. Where the situations described by Keilson generated from pure love for the child, as well of the real parents who separated themselves from their infant in order to save its life, as of the foster parents who accepted the child for the same reason, risking their own life by doing so, the cases of children born born out alternative procreation result from the wish to serve the parents rather than to serve the child. Where in the first is was a matter of life and death for an already born child, in these new situations it is a matter of parental satisfaction or the lack of it, and concerns not yet born and even not yet conceived children. It is a difference between altruism in behalf of the child and egoism in behalf of the parents. Although a lot is said about the so called right of parenthood, nearly nothing is heard about the right of the child in such a situation.

Nevertheless, there are scholars in the field of psychiatry, psychology, biology, genetics, gynaecology and other medical specialities, who urged to abstain from experiments in alternative procreation until more research has been accomplished about the psychic and somatic consequences for the thus created children. According to professor Sanders-Woudstra [18] and professor Hoefnagels [19] a right of parenthood does not exist, even if the desire to have a child can be understood. Mrs. Sanders-Woudstra moreover claims the right for everybody to know his of her roots and states that not knowing them causes suffering [20]. This statement is supported by article '9bis' of the Draft of the Convention on the Rights of the Child, defending a child's identity as an essential right [21]. At a conference in December 1985 at the Vrije Universiteit in Amsterdam, the psychiatrist Mrs. Hageman warned women with regard to the procedure of bearing a child for another woman and then to separate after birth, and professor Hoksbergen said that, to his opinion, nobody who pursues the wellbeing of children could agree with women and men who consciously and willingly want a child of their own without accepting the other parent. Professor Kuitert states that a child cannot be abused to satisfy the want of parenthood. The psychiatrist Dr. Groen complains about the fact that medical technology confronts us with the most interesting questions but never with the future wellbeing of the technologically created child [22]. Professor Galjaard advises strongly against surrogate mothers in the sense of bearing a child on behalf of another woman, and reminds physicians of the old medical advice "in dubio abstine" [23]. The German Dr. Henry Tietze wrote a book to warn us of the "Brave New World-like" medical technology in matters of alternative procreation [24]. The gynaecologist Peter Petersen does not only warn us of the possibly irreparable damage to the physical and mental development of technologically created children, but moreover points out the statistics of 20 % miscarriages, 26 % clinical abortions and 50 % of very complicated pregnancies as a result of these practices. According to him, decades of intensive research are required before we can know something about the consequences for people born these ways [25]. And finally the German psychiatrist Dr. Klaus Bick asked if it is allowed to burden people with the knowledge that their conception was not the outcome of love between a father and a mother and of their unison, but that it took place in a nurturing liquid between glass and chrome [26].

Notwithstanding all these testimonies, the majority of the Council for Public Health Affairs (Gezondheidsraad) in the Netherlands, when asked by the cabinet for advice in these matters, answered in 1986 in favour of "in vitro fertilization" (IVF), and notwithstanding all the warnings concerning identity crises, decided that the donor of the sperma should remain anonymous [27]. That even

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these members of the Council recognize that there are dangers connected with these kinds of procreation, proves their additional advice to observe these children carefully until after their adolescence. I would like to ask whether it should not be an indisputable right of children, to be offered such a start that would not involve the necessity to observe them so carefully. Such a medical guidance during their whole childhood seems to be contrary to the first paragraph of the Geneva Declaration of the Right of the Child, that "the child must be given the means requisite for its normal development, both materially and spiritually [28]. Willingly and consciously to providing them with a risk from the very beginning of their creation, seems to me a violation of a child's rights.

If we want to strife after a worldwide codification of children's rights, we don't only have to be conscious of the relativity of notions, norms and values, like "the" child, "right" and "social justice". We also need to have enough historical knowledge to avoid another fiction, namely the ideological one of, for example, the Enlightenment, that something like objective human happiness exists or could ever exist. We should not forget that the happiness of one person sometimes inevitably means the unhappiness of another. If we have to choose between the happiness of a woman, inapt to conceive or to bear children but longing for motherhood, and the possible unhappiness of a child given her by technical means not free from danger, we have to realize that of the two parties involved, only the woman can choose, while the child is a powerless object of that choice. It seems a demand of simple morality that the party apt to chose should sacrifice a personal want in behalf of the powerless. Considering this, Ellen Key's plea, that children should have a right to chose their own parents, can be understood in an new light : instead of being a passed station after the criminal Social Darwinism of the Nazi's, it seems suddenly to have been a prophetic intuition.

So far we only spoke of the mental and psychic implications of alternative procreation through medical technology, but what about the commercialization of its output ? Not only naturally born children of poor Latin American families are sold for money to the western world, sometimes after having been kidnapped, but in the wealthy U.S.A. women give their womb for rent to bear children for other women. Commercial sperm banks and commercial brokers in surrogate mothers seem to have already passed the phrase of mere theoretical possibilities. How do we confront such possibilities with article 9 of the Declaration of the Rights of the Child that it "shall not be subject of traffic in any form" [29].

III. With regard to the third variable, the diversity of society systems and the rapid change of each of them in modern times, we have to realize that granting a right theoretically is not necessarily the same as being able to effectuate that right. Thus, for example, the 17th century pedagogue Comenius as well as Martin Luther before him, declared school education to be the right of every child, male and female, poor and rich, and many princes agreed with them on that issue [30].

Nevertheless their societies were not rich enough to materialize such a right. Only after the industrial Revolution in the 18th and 19th century, western societies became wealthy enough to pay for this very expensive right.

Besides this economic factor, the demographic composition of a society has its say in the effectuaction of rights. A society suffering from overpopulation will show a much lower estimation of the value of its children than a society with a lack of manpower. After the Second World War, for example, and the considerable loss of children it caused, European populations were not only eager to procreate, but their governments were most willing to reward them by way of fiscal privileges for large families, whereas since the economic recession of the later Seventies and the threat of overpopulation, these privileges are the subject of inflamed debates in parliaments. That means that the right of children are dependent on the rights wich governments grant to parents, and governments are dependent on the demographic and economic situation of their society, notwithstanding they do have, up to a certain degree, the power to control and to steer economic developments and, above all, to choose priorities.

Moreover there is an ideological influence, be it a political, philisophical or religious one, on the effectuation of children's rights. How strong this ideological influence can become, is dependent on the question whether a society is a pluralistic or a monistic one. In the first case a complex of compromises will produce a rather ambivalent and vague but flexible legislation, whereas in the second case legislation will become more clear and outspoken but quite static.

So, of all factors, the shape of a society is surely not the least influential on the rights of children and we have to realize that educational and juridical theory will not be able to achieve something without the support of political action.

The necessary awareness, however, of continuous change of the image of childhood as well as of the concept of the right and justice and of society systems, includes the danger that every worldwide codification of children's rights will become so generally and vaguely formulated, that it will not be able to guarantee real protection and safety for children.

Childhood, being for millions of children a very short period and in any other case never exceeds one fourth of a lifetime, we can, with regard to a codification of children's rights, not wait for very longlasting, bureaucratic decisionmaking processes. Therefore every codification of the rights of children to come into existence should start with the statement, that the first and most important right should be the guarantee of short-termed evaluations of the valuability and usefulness of the last accorded rights, as well as the guarantee to change and to correct everything that turned out not to have been effective during the last evaluation term or that, due to our rapidly changing world, turned out not to be effective any longer.

Finally we have to beware of a splendid isolation of the rights of children from the rights of men. Again in my above mentioned book, I showed that children are only gradualy different from grown-ups, not essentially.
So every right claimed for adults should also be granted to children with the only difference that, where children are still too helpless to defend their rights, adults should maintain them on behalf of the children. It would also be useless to grant rights to children if these rights should not be maintained during their life as adults. For example : what is the use of a right on good education and excellent vocational training during childhood and youth for every child and youngster, if later on, in their adults lives, there would not be enough employment for every one, in which to use the acquired skills and knowledge ? This paradox of an optimal childhood and a minimal adulthood manifests itself in tragic proportions all around us. The same paradox is evident in cases of a highly sophisticated rehabilitation of crippled children and the society they have to live in as adults with unaccessable public buildings, unaccessable means of transportation, and offices they could have worked in, would they have been accessable for handicapped. The same can be said about the careful rehabilitation of juvenile delinquents who in adultlife will be reminded constantly of the errors of their youth and so will be blocked in their carreers.

In 1984, as Veerman explored, the Executive Board of Unicef uttered the question : "what is the use of bringing up children in the world if we cannot ensure their survival ?" in the following discussion was asked : "What is the use of ensuring their survival if the lives they are going to have are not worth living ?" In this respect Veerman points to the interesting development that "today we are seeing the value of life ethic being replaced by a 'quality of life' ethic" [31].

Without the perspective of a meaningful life as an adult, the best education and the best rehabilitation is rather a way to frustration than an enjoyable right. So we can not isolate the rights of children from the rights of men.

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31. Veerman, Ph. E., see 13.

CHILDREN'S RIGHTS AND NEEDS OR/AND HUMAN RIGHTS AND NEEDS

Open problems and personal convictions

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1. Introduction

A. We are discussing, in this meeting, the destiny of persons unable to be present among us. Children, whose rights we are analysing are neither invited to nor capable of, in our present social system, come forward and participate in our dialogue about them. Adults speak on their behalf; these adults disagree about the extent of children's rights. Although attempts have been made to consult the children themselves [1]· these attempts are few in number. Moreover, many sources of error intervene to lessen the significance of these consultations, which certainly should happen more frequently. But, things being as they are, we find ourselves in the undesirable situation of thinking about and speaking of, a group whose absence is conspicuous and whose silence can be heard.

B. This general state of affairs is already paradoxical. However the situation of the author of this paper is even more so. The author is an elderly philosopher, who never worked with children younger than 18 years of age. His knowledge of children is on the one side largely theorethical, derived from his association with Jean Piaget's "Centre International d'Epistémologie Génétique", and on the other side narrowly practical (as a father of two children). His acquaintance with law is slight, and limited to the problems a moral philosopher cannot avoid, when discovering in ethical thought the complex interplay of "rights", "goods", "obligations" and "values". However, both genetical psychology and the general theory of right and wrong have been used in the discussion of children's rights. So perhaps, I am not completely out of place when writing about this topic. The topic is however an extremely complex one (as all those who have looked into it will know). It is only fair to warn the reader at this point that I have not been able to reach conclusions that are satisfactory (even in my own eyes). To cut a long story short I consider children to be an endangered species. I have strong misgivings about the way adults, both at home and in institutions, treat them. I wish strongly to contribute to their defense, as I feel strongly about the defense of the underdog in general. But I do not know what the best strategies are to reach these aims. One of the most popular strategies that have been used by the "Child Liberation Movement" is the defense of children's rights, as derived from Human Rights. One of the few results, I have been able to convince myself of is that this strategy can not really be taken seriously (except in a rhetorical sense). This is a disappointing result. However, by eliminating one method, we can at least encourage others, more competent to look in other directions, for other methods.

My convictions are the following ones :

1. The Child Liberation Movement is aware of well defined, concrete causes of suffering and degradation, inflicting serious harm on children. It wants - just like I do - to modify society in such a way that these concrete causes of suffering and degradation are eliminated.

2. However, for various reasons (factual powerlessness of the movement and of children; the general tendency, instead of attacking specific evils, to delegate one's powers to the state and to conceive of no other intervention than changing the law of this state; the professional training of activists as lawyers) instead of attacking the causes of their indignation directly, the members of the children's liberation movement express their worries about concrete situations by means of formulating general "rights of children" (similar to "rights of women" or "rights of immigrants" or " rights of labour- "). Resistance against X is expressed as the claim for Y, to have the "right" to avoid X. A concrete fight against someting real, is fought by means of an alienated battle in favour of a fiction. ("right of youth").

Moreover "youth" as such is ill-defined, and - I repeat - powerless. Therefore a second rhetorical move is made : "rights of children" are derived from socially more entrenched rights (more entrenched because the battles of other underprivileged groups - labour, ethnic minorities, discriminated religions - have in comparison been fought earlier). So, one tries to derive the "rights of children" from "the rights of men". Again - in our view - these rights of men are fictions. The reason they are introduced is to 1. Stress the extreme seriousness of infractions against them (in the eyes of members of activists movements). 2. Try to create a general solidarity of all those, who are, underprivileged for different reasons. 3. Invoke transnational support for struggles that find no national means of victory. But, "rights of men" are as much a fiction as "rights of children". 4. In order to redirect the struggle, and to transform the battle for changes in legal systems, changes that are anyhow seldom applied (even if made), as existing power retributions and customs are enforced, it is necessary to debunk the two fictions and their rhetorical interrelatedness. However, it would be naive and harmful not to rely on appeal to these fictions, if only one remains aware of the relative inefficiency and the intellectual weakness of this appeal, and of the necessity to fight the essential battle elsewhere.The following pages are dedicated to the defense of these theses.

2. Children's Rights and Human Rights

The basic syllogism of the child's liberation movement is the following one (we shall refer to it as syllogism A) :

1. All children are human beings.
2. All human beings have all human rights.
3. So : all children have all human rights.

This syllogism is perfectly valid. The conclusion (3) follows logically our of the premises (1 & 2). The syllogism is a syllogism in Barbara : (AAA). The class of children is included in the class of humans (C<H). The class of humans is included in the class of human right holders (H<R). So the class of children is included in the class of human rights holders (C<R). {C<H; H<R}-->{C<R}! Not even a logician, that most diffident of all creatures, would disagree (if at least he acknowledges Aristotelean logic).
However, - so the members of the youth liberation movement continue - in all present societies, children are deprived from certain basic human rights.

In order to evaluate this factual conclusion, we should know what are the Rights of Men. Since the Stoa, and Hugo Grotius, many attempts have been made to define rights that would belong to all human beings in virtue of the fact that they are human[2]. The easy way to avoid this long history is to consider the declaration issued in 1948, by the United Nations as the latest and most complete statement of human rights. This is only a short cut : as a philosopher, I must ask for a reasoned argument in favor of the thesis that this declaration does indeed do what it claims to do : namely to express the rights every human being posesses in virtue of its nature as a human being. I shall come back to this difficulty later.

For the moment, I shall accept this operational definition, used by the children's liberation movement. The factual statement that children are deprived from basic human rights is defended as follows :

1. Articles 18 and 19 of the U.N.-declaration state as a human right, the right to choose one's religion, to freely express one's opinion and to defend it in public. Children who are obliged to practise the religion of their parents and who are excluded from schools because they form unions or express political opinions are deprived from these rights.

2. Article 17 attributes to every human being the freedom to posess property. Children are deprived of the right to own property.

3. Article 21 attributes to every human being the right to participate in the direction of his country. Children, before voting age, are denied this right (even in the few democracies our world knows).

4. Article 23 recognizes the right to work. Children before certain ages, are denied the right to work (the age varie with the country).

5. Article 10 recognizes the right to be represented in court of law when

one's interests are endangered. Children cannot exercize this right and cannot be represented in court by counselors chosen by themselves.

6. Article 5 recognizes everybody's right not to be submitted to cruel, inhuman or dishonoring punishment. Children who are humiliated, beaten arbitrarily emprisoned by parents or educators, are denied this right.

The 1948 declaration mentions explicitly children as having the right to be educated and to be protected (Article 25-26). Factually these rights are as so many other "human rights" not respected (f.i. in most third world countries).

My impression is, that, purely formally speaking, the activists of the "Child's Liberation Movement" are correct. As our examples show, children are deprived from enjoying rights attributed to all humans by the 1948 declaration.

The Child Liberation Movement reaches the following conclusion :

1. As we have verified, the legal systems of all nations, deprive children from exercizing certain basic human rights.

2. But the declaration of 1948 claims to set up a minimal standard of rights, that all individuals in all nations should posess.

3. So, as all states should realize the conditions allowing all of their citicens to enjoy the privileges entailed by the Bill of Rights, all states should realize conditions allowing children to exercize the rights they are at present deprived of.

This conclusion hinges on the relation between positive law and natural law. Indeed : human rights do not belong to positive law. Positive law is a set of rules and regulations, adopted by the organization that de facto monopolizes the use of violence in a territory. (Such violence monopolist is called a state). As the long and difficult story of the enactment of the articles of 1948 in national legislation shows, the fact that the 1948 Bill has been adopted by the United Nations does not automatically guarantee that the violence-monopolists that are the states accept the verdict of international public opinion. However, we may safely assume that the declaration sets up an ideal standard, that a general tendency in present humanity exists to realize this standard, and that the following syllogism is valid :

1. No "optimal" system of positive law is in contradiction with the 1948 declaration.

2. All existent systems of positive law are in contradiction with the 1948 declaration (in many ways among others with reference to the status of children).

3. So : no existent system of positive law is optimal. (The form of the

syllogism is now "$O < C$; $E \cap C = \phi$; Sv. $E \cap O = \phi$". It is again valid).

This conclusion gives the children's rights activists a sufficient justification to act against the restrictions children are submitted to in all known systems of positive law. In order to attack the conclusion, weakening the case of the child's liberation movement, various rebuttals are presented.

1. The status of the 1948 declaration as expression of the Bill of Human Rights is attacked, (if this attack succeeds, then the incompability between the child's status in positive law and the demands of 1948 no longer justifies the suboptimality of positive law). The opponent asks for a "valid system of human rights" not obstained by political haggling (as was the case for the 1948 declaration). The onus probandi falls - if this stand is taken - on the shoulders of the child's liberation activists : he either has to abandon his human rights approach, or he has to produce by reasoning, a 'valid system of human rights'.

2. The first premise of the basic syllogism (A) is attacked. In 1959 the United Nations promulgated a Bill of Rights of the Child. If the international legislation had intended the General Bill of Rights to apply to children as such, it would not have been necessary to add a new Bill (some claim). Others however consider the later declaration only as a stronger emphasis on certain features of the earlier version. Whoever may be right, the problem becomes : "Is the general Bill valid for children" ? Children are human beings with specific properties. Applying default reasoning, well known in artificial intelligence, the opponent argues as follows : all children are human beings, in those respects in which they do not differ from adult human beings in general,(but, even if all birds fly, the ostrich is a bird, and yet it does not fly). Focusing on those aspects in which children differ from human beings that are not children, the opponent concludes that the conclusion of A is not derivable.

3. The second premise of (A) is attacked. Children have as a specific sub-class of humanity, specific rights other humans do not have, and, from these specific rights, follows that they do not have other general rights, due to human beings in general (f.i. they have the right to be protected, cared for, educated, and, by the same token they do not have the right to refuse education, to engage prematurely in sexual activity, to partake in drugs, to own and sell property, to work).

These 3 attacks are serious enough to demand careful study.

3. The Status of Declarations of Human Rights

This section is basically of a historical and ethnological nature. Starting with the English declaration of 1688 continuing with the American Constitution, the declarations originating from the French Revolution and culminating in the

1948 Bill, different historical movements have produced different Bills of Rights. The social historian easily discovers that these Bills have different functions and serve different purposes. In 1688 England, an independant land-owning class asserts its claims against King and Parliament. In France, 1789-1793, the third class, the Bourgeoisie, asserts its claims against the nobility and the church. In 1948, shocked by the "Shoah", the international community tries retrospectively to justify the Nüremberg trials by giving content to the "Crimes against Humanity charge", in a difficult negotiation between the Soviet-Union introducing welfare-rights as claims, and the United States, holding on to the negative freedoms of interference of the English tradition.

In short : every known "Bill of Rights" is a political act, outcome of a specific power struggle. This "act" is not a discovery, but a construction, legitimating a state of affairs brought about by social power relationships. History shows that "It is not tenable, that man are born free and equal". There are no innate rights; all are acquired, or have still to be conquered in battle.[3] However, each "Bill of Rights" transcends the historical situation that has produced it. By formulating rights for larger groups than its originator's the latters claims, each historical Bill promulgates rights more extreme and universal than those who are actually realized, and by expressing them in a more general way, these political acts create a force field of their own, by means of which the acquisitions of the past power struggle can be deepened and generalised.

The Bill of Rights of 1948 contains for instance two fundamental types of rights :

1. rights of action and of participation establishing freedom from coercion in different sectors of society.

2. rights of protection and welfare.

The first are derived from the liberal, the second from the socialist traditions. In the case of child rights their opposition is particularly impressive and important. We come back to it when we study the internal contradictions of the Bills of Rights, but it is already visible at first sight that the 1948 Declaration foreshadows a future society that will transcend both the State Socialist Eastern States and the Capatalist Western States.

In the cold war between the URSS and USA human rights have been consistently used by both opponents to attack each other : the URSS is accused by the USA of violating. Art. 13 (free mobility within and among states), Art. 9 (rejection of arbitrary arrest, detention or expulsion), Art. 18 (freedom of religion), Art. 19 (freedom of expression of opinion) Art. 20 (freedom of reunion). The USA is accused by the URSS of violating Art. 23 (right to work, equal pay for equal work), Art. 24 (rest and pleasure), Art. 25 (right to sufficient standards of life), Art. 26 (free education), Art. 27 (free participation in cultural life of the community). As far as I can see, both super powers are

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equally guilty and none of them deserves the "right" to adopt sanctimonious superiority attitudes. Both states, "cold monsters" as all states, use the 1948 declaration as a weapon in a planetary struggle for hegemony. While both states do pay lip service by using it, none of them apply to the 1948 declaration when it conflicts with the "raison d'état".
No other state known to me shows a better behaviour. But organisations defending oppressed groups can (or could) use the practical utopia of the Bill to promote the future.

One has to recognize however that the functional approach towards "Bills of Human Rights" has a debunking and desacralizing effect; moreover one cannot discover a linear progress, leading from "Bill of Rights" to "Bill of Rights". If such linear progress were visible, we could construct "The Bill of Rights" of the 21st century by extrapolating a line of development. This is not the case however. As to the topic that holds our attention, this fact is particularly deplorable. Art. 16, of 1948, states in paragraph 3, "the family is the natural and fundamental collective unit of society and has the right to be protected by society and state". This sounds hollow in a period (our own) where this same family suffers severe functional losses, and is frequently disbanded. In 1987, when 50 % of all marriages in the USA end in divorce. But this very statement can and has been used by many opponents of child rights to curtail the claims of the young, as disruptive of family life. It is obvious that not only our increased awareness of the politically determined origins of Bills of Rights, but also their historically dated presuppositions make it difficult, in the present age and in the present case, to use them univocally as foundation of new rights for children.

Historical study deprives Bills of Rights of much more of their appeal. Ethnological research has the same effect. Edmund Leach and Claude Levi-Strauss are both on record as opposed to the idea of human rights. Their opposition is derived from their profession : they both consider declarations of Bills of Rights as attempts, deriving from the only planatory dominant culture (the Western Culture) to impose on other civilizations its own view on man and on personhood. I want to present a few ideas, put foreward by Lévi-Strauss in his "Le Regard Eloigné". A chapter, entitled "Views on Freedom"[4] analyses human rights, defined as "unalienable rights" posessed by each human being. The author, as I did in earlier paragraphs, takes his starting point out of the historical relativity of the idea of freedom "The idea of freedom", as we conceive it, only appeared at a relatively recent date; its contents are variable, only part of humanity adheres to it, and believes - often only in error - to enjoy it. Behind the major principles of 1789, we discover the decision to abolish concrete and historical freedoms : privileges of the aristocracy, immunities of clergy, townships and castes, freedoms that had become obstacles to other freedoms, historically more powerful in 1789.[5] The freedoms of the 1948 Bill are, according to Levi-Strauss, fundamentally meaningless for the largest part of the underdeveloped countries. In their case, freedom from hunger and sickness might be of such primary importance that the classical Anglo-Saxon liberties fade into insignificance. Moreover the constant reference in every "Bill of Rights" to their realization within the framework of existent laws, goes even further in the direction of their relativisation. Levi-Strauss obviously considers of paramount importance the preservation of concrete, historically grown particular differences. In this he joins the stress of ecologists on polymorphism, preservation of variety and multiformity, among species and within species. Levi-Strauss, as an ethnologist, is too much aware of the difference between different cultures in their definition of man, person, freedom and right to harbour the illusion that a really general "Bill of Rights", reaching the real essence of humanity can be entitled to base itself on men's essence as a moral being (as "morality" is described in a particular culture).

His proposal amounts to a rejection of the ideology behind the various "Bills of Rights" we studied in this paragraph, and proposes in fact a new beginning. The rights of man - if they exist - should derive from his biological nature as a specific organism [8]. The only culturally invariant features Lévi-Strauss is able to discover are biological features. Prima facie his case is strong. But revolutionary consequences follow : if human rights derive from our animal nature, they should be considered of equal value (neither more nor less stringent) as animal rights, and rights of the environment.

The french ethnologist, aware of the drastic character of his proposal, considers the revolution entailed by it as deeply relevant as the Declaration of Independence of 1776 and the Declaration of Rights of 1789 and 1793.[7] Lévi-Strauss does not refer to the rights of children. However, with growing up being as much a biological as a cultural process, one cannot doubt that the consequences of this ideological turn for child rights will be major. The study of children's rights as deriving from biological growth has not yet begun. We conclude : the child liberation movement has tried to find a formulation for its demands in the publicly promulgated "Bills of Human Rights" (giving concrete content to the term "human rights", used in premise 2 of syllogism A). The opponents of the movement have attacked this operational definition of human rights. They claim that they are historically and ethnologically provincial and local and that these expressions of power play cannot - without hypocrisy - be used as the foundation of the new revolution in human affairs, the child liberation movement aspires to achieve. The present writer reluctantly agrees. Either we have to abandon the reference to human rights in promoting the child liberation movement, or we have to abandon their definition by means of the historically influent, publicly promulgated, (nationally or internationally) "Bills of Rights".

But we do not give up entirely. We should procede towards a deeper foundation of the concept of human rights. Four promising hints have been suggested by our brief historical and ethnological references : 1. Man may lack a historically invariant essence, on which his rights as man are founded, but he is a historical being, constructing and reconstructing his strategies of production and reproduction. His very historicity is this a historically invariant feature. 2. Man may lack a transculturally invariant concept of ego, personality and right or freedom, but the fact that man is a species generating divergent cultures and able only to survive as a member of a culture, is a transcultural invariant. 3. Man is an organic species and as such, posesses a transhistorical and transcultural identity. 4. The various political actions (the "public speech acts") performed by the proclamation of "Bill of Right" have an utopian dimension they reach beyond themselves. (in the causes that produce them the terms they use, the functions they perform, the implicit aims they pursue). This "immanent transcendence" may be used to formulate new, more adequate, bills of human rights. The four leads cannot be pursued here. We return to more classical attempts to defend human rights. We must apologize for having left behind, in the discussion of human rights in general, children's rights in particular. The reader will acknowledge however that we were compelled to do so by the very form of the basic syllogism of the child liberation movement, and the nature of the attacks against it.

4. Rights in General and Human Rights in Particular

A sentence of the form "A has the right to do X" (or, "A has the right not to do X)" is defended by an appeal to an institution regulating the performance of such acts. This institution will be called "rational" if the rules imposed agree with the aims pursued by those who create and enact it. For instance : "I have the right to use my appartment is true because I pay my rent and am the legal occupant of this appartment recognized as such by its owner". This example refers to a legal right. Legal rights can be justified by reference to other non-legal institutions "I have the right to ask your help because you often asked mine, are competent to assist me, received in the past my assistance that was freely forthcoming and what I ask does not put you in jeopardy" gives an example of very natural though already complicated argument that is fundamentally based on a degree of reciprocity held to be expected in the informal institution of "helping each other". This right is not a legal but a customary right. One might call it moral but, I conjecture that we call "rights" only such claims that we may defend without presupposing a specific ethical system. I am well aware that this hypothesis will not command general consensus. However, I defend it as follows : major disagreement exists about moral and ethical systems. The obligations under which we stand and the values we give priority to, are in doubt. I believe that when we claim something to be "a right" we say something stronger than "If one accepts our ethical system E, every one is obliged to refrain from preventing us to exert this right", and also something stronger than "If one accepts axiology X, my using my rights has positive value, and my being prevented from using them has negative value". In fact, I believe the following statement to be true "Whatever the ethical systems, or the value hierarchies we accept, our rights are independently valid". This statement, claiming "rights" to be more fundamental and basic than values, goods, virtues or obligations agrees with human behaviour (the revolt against having our rights endangered is stronger and deeper than the disappro-

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val of immoral acts or the disgust towards negative values). If rights are accrued to us, in virtue of the informal social institutions that organise our lives, this general attitude would be understandable. In fact, far from being tied to morality, rights create a value-free, not anti-moral but a-moral, domain, within the limits of which persons are allowed to structure their lives as they see fit. Such rights are independent of legal rights (in fact, while no legal system is being perfectly adapted within the society it governs, rights founded by informal social institutions can in certain cases, conflict with legal rights or obligations). However, all the rights I discussed until now are specific rights, owned by specific types of persons, because they performed certain actions in the past, that, according to existent social institutions, confer upon them the right to make certain claims, to be entitled to certain consideration. The reader should notice that I did not give a definition of what it means to have a right to perform an action. I only tried to give a short hint of the methods used in general by those who hold certain non legal rights, when they are called upon to defend them. For the time being, I am willing to define a right, by the normal way of defending it. Before leaving this topic, let us be reminded that we do not only have rights to perform certain actions, but also rights to have certain actions taken (or not) towards us (2) and to exist in certain states (3). We already mentioned the distinction between rights of freedom, passive rights and welfare rights. For instance : I have the right not to be deprived of my privacy (case 2) and the right to have a certain number of hours of sleep (case 3). These rights are non-legal entitlements, justified claims and I roughly described the way in which we justify them.

My analysis of "right" in general does prevent me from using the foundation of human rights according in John Rawls "Theory of Justice". [8] Rawls has no explicit theory of human rights. Rights all persons share as persons must, according to him, be derived from the rules of justice adopted by humans setting up a society in "the original position", under a veil of ignorance hiding the place they shall occupy in the social body they construct. Rawls shows that in this original position, the rational agent will only accept to enter the society to be, if he and the other participants accept 1. the duty not to be cruel to each other 2. the duty to help in need 3. the duty to support and practise justice.

These "natural duties" give rise immediately to "natural rights".[9] Intelligent as this proposal may be, it derives rights from duties and is, for that reason, incompatible with our basic convictions about rights. We cannot enter here in the enormous controversy about "the original position", and its a-historical idea of rationality. We refer the reader to Rawls himself,[10] to Richard Dworkin "Taking Rights Seriously",[11] and to "Reading Rawls".[12] We wanted to mention this point because in the literature on "Children's Rights", Rawls is often mentioned as a basic reference.

Human rights are both simular to, and different from, rights in general. All

humans posess them, in virtue of the simple fact of being human.[13]
I shall consider three basic different attempts to justify human rights. A first school attributes certain basic properties to all men and derives their rights from these basic properties. A second school, refering to utilitarianism tries to establish on a utiliterian basis "human rights", (nothwithstanding Jeremy Bentham's outright rejection of them). A third school abandons the concept of human rights as fundamental and replaces it by the concept of "basic needs". These basic needs lead roughly to the same demands as human rights.

4.A. Alan Gewirth departs from the fact that all men are agents. An agent is a being that pursues the realisation of certain goals, that are his or hers reasons for acting, and moreover pursues these goals voluntarily, (i.e. as a result of a decision made after unconstrained deliberation). Every agent, as an agent needs the conditions necessary for performing actions. In other words : every agent needs the conditions allowing freedom of choice (in the above defined way, not presupposing metaphysical indeterminism) and allowing actions to be at least partially successful (i.e. sufficient means, time and materials to realise at least in part his purposes). This need is in some sense particularly deep and fundamental because it is directed towards the necessary conditions of being an agent as such. Let us then, as it were, "enter the agent's head" and look at the situation from within. Then, I as an agent, claim that I have the right to have at my disposal the conditions of autonomous deliberation and successful action, by the very fact that I can only exist as an agent and can only claim that I have the right to exist. If I were to limit my claims in this respect, I would, to the same extent, cease to be an agent, an act I cannot perform, because I am defined as being an agent. However, in as far as I claim to have these rights as an agent I would be inconsistent if I refused any of these rights to any other agent. So I demand for all purposive agents "rights of freedom and well being". [14] The argument, is called by A. Gewirth a "dialectically necessary one". One sees why. As long as we remain on the theoretical level ("outside", adopting the point of view of an observing "third person"), we notice that nobody is a perfect agent. There exist degrees of autonomy of action, and no agent is necessarily completely or even partially successful. From the fact that I intend to write a book, marry a woman or buy a car (i.e. acting as an agent), no "right" is born for me to write that book (I may be inept), to marry any woman (I may be dangerously ill), or to buy any car (I may be blind). But, "Seen from the inside", if "I intend to buy a car", I must necessary claim that I, after reasonable deliberation, have come to a decision that I have the right to execute. I. Kant derived human rights from the capacity of men to act according to laws they give themselves. Kant's justification does not work because this capacity to act autonomously cannot be externally observed, according to Kant himself (freedom being excluded by the determinism necessary for the constitution of experience). A. Gewirth attempts to reconstruct Kant's argument by consistently placing himself in Kant's so-called "noumenal world", the world of the first person. I claim however that his attempt also fails, because I am only an imperfect agent, because others are no more perfect than I am and because on the basis of my desire (!) to be a perfect agent (and have others share my lucky fate - if I am an altruist) I cannot attribute to myself and others rights that I - and they - do not deserve, if (!) the only justification of our having them is being perfectly what we are only imperfectly. Moreover the claim to have reality organised in accordance to my desires, presupposes that agents have a central position in a universe in which they are only periferic. The pattern of Gewirth's argument is clear : 1. He wishes to establish human rights 2. In order to reach his aim, he attributes to men a nature, an essence ("being an agent") from which these rights would be deductible 3. However, this nature or essence is only partially realised, and human beings have a much more complex nature. Man is not only an agent. He is also a tool maker, a communicator, an emotional and sensual being, a historical creature, a symbolizing being. And all of these diversified characteristics are only realised to a limited extent in concrete individuals. The type of argument presented by Alan Gewirth could be repeated for all these different specifically human features. We can not even surmise what tables of human rights would be derivable from such diversified defenitions of humanity. However, in all cases the reasoning would be the same. Men have the right to live in situations that contain the necessary conditions for the realisation of their full humanity. Such reasoning will however fail to justify the absolute claim of basic rights for four reasons :

a. These rights can only be realised to the extent in which social and economical development gives us the means to actualise the potentialities contained in human nature.

b. The various dimensions of humanity show fundamentally contradictory features; this conflictual state of affairs will reflect itself in the systems of human rights proposed.

c. Each human dimension will only imperfectly be realised in each human being (factually and even in principle). So each human being has only to a limited extent claim on these rights.

d. The appeal to human nature as a foundation for human rights is particularly distasteful to some of our contemporaries (f.i; structuralists of all persuasions, as much as deconstructionists of all types). These thinkers after the death of God, announce the death of man. They deny the existence of a human essence.

I do not agree with these anti-humanistic schools, but acknowledge the power of their influence. I do however accept the restrictions imposed by (a, b and c). They weaken sufficiently the human rights based on this type of reasoning, to warrant the following conclusion : we are struck by and suffer from the acute needs of neglected, abandoned, terrorised, miseducated, corrupted, suffering children (all characterised by the major fact that they do only very partially realise the highminded specific features present in the various foundations of human rights, referred to by the multiplicity of essentially contested, far from objectively proved, definitions of the human essence). It seems, useless to me to appeal to the vague and contradictory rights, deriving from these, only sketchly realised, philosophical antropologies.

This conclusion can be verified by looking at yet another attempt. Loren Lomasky[18] presents an attempt analogous to Gewirth's. To him human beings are project pursuers. Project pursuers, whatever their project may be, value their ability to pursue projects. That means that they value having moral space. Because rights demarcate moral space, every project pursuer has reason to want to be a "rights holder".[19] The idea of a project pursuer is richer than the idea of being an agent, only in so far as a project entails : 1. a multiplicity of goals, and a certain hierarchy between them, 2. an invariant ego or person carrying out projects over long stretches of time. Gewirth might make a case for the idea that to be an agent entails being a project pursuer (the converse certainly holds). He does not do so however and we shall not take up this point. What interests us more in Lomasky's attempt is again that wanting to be a right's holder does not make me ipso facto a right's holder. I need 1. others to recognize me as wanting this, 2. others to consider my wanting a right to be a valid reason for them to confer to me this right. Lomasky proposes Thomas Nagel's "The Possibility of Altruism" as a bridge. If I have reason R to want X, then you, recognizing that I as a person am motivated by reasons that I acknowledge as such due to their impersonal status, will conclude that if I want X for reason R, there is, at least at first sight, a reason for X, and, recognizing this, you as a co-person also looking for objectivity, consider R also - to a lesser extent - to be a reason to promote X. Moreover, you, as a person are also a project pursuer, wanting not to be interfered with. I am a potential source of interference. So, in order not to be interfered with by me, you don't interfere with my concerns. The first arguement is rational, but weak (R is not as strong a reason for action in my case as in yours); the second is egoistical and prudential (and holds only in certain cases). Both arguments only establish rights at first sight. Later reflection may overrule initial conclusions.

In Lomasky's well argued paper, the rights of infants and even of children that are not, to a strong extent, project pursuers, become problematic. They can only be justified with reference to the rights of other full fledged project pursuers, that presumably, value the multiplication of project pursuers and even count this multiplication as one of their projects. The reader will recognize here the basic flow of all these attempts of justifying human rights by human nature : if they work at all, they work only weakly, restrictedly and derivatedly in the case of those who do not completely realise human nature : the elderly, the sick, the handicapted, the demented, and children !

4.B. Confronted by the unsatisfactory state of human rights, we turn to the utilitarians. As mentioned, for Jeremy Bentham' "human rights" are "nonsense on stilts". If the basic maxim of our morality is "Maximize the total happiness of the society" we accept to sacrifice, in extreme cases, the rights of any given individual or group, if this sacrifice is needed for the common welfare optimalization. Utilitarians were shocked however by their own daring : John Stuart Mill and Henry Sidgwick trying to revaluate the concept of "human right" as follows : calculating the utility balance of every specific action is time consuming, creates general insecurity and, given human fallibility, leads to errors. Therefore, the utilitarian maxim should be applied to general rules and institutions, and not to particular actions. Allan Gibbard concludes [17] "Suppose ... you have a choice between the following 1. A simple principle of great natural appeal : say, the principle of freedom of arrest without probable cause and speedy trial, 2. that same principle with provisions for the rare cases where detention without trial promotes the general good, 3. No principle at all other than the principle of acting in the way best calculated to promote the general good. Advocacy of the simple principle may well have the greatest expected utility.[18] However, this conclusion should be proved by socio-psychological research. Obviously this has never been done. Moreover, this "indirect" utilitarianism "subrepticely" introduces an appeal to human nature, postulating that man as such responds strongly to simple rules, to autonomy claims, to "To each his own" (whatever "one's own" may be), and that the utilitarian legislator should hele these features of human nature. Finally as James Fishkin [19] has remarked the list of human rights that could receive such utilitarian justification is rather short and poor "liberty of persons as opposed to enslavement, freedom from cruelty, freedom from arbitrary execution, from arbitrary imprisonment, and from arbitrary deprivation of property or livelihood, freedom of religion and freedom of inquiry and expression". Welfare rights are conspicuously absent. They could be justified - so it seems to me - on the basis of utilitarian calculations if one takes into account the utilitarion defense of an egalitarian society, based on the large utility of welfare increase for the poor, the small utility of welfare increase for the rich, and the large utilily for social peace and social efficiency of egalitarian redistribution.

From our point of view, utilitarianism (even though its enlightened ethics make it less dangerous than its deontological counterpart). Again sins against the basic feature of a right, not to derive from duties but to have priority over them. Moreover, the difficulties of inter-subjective comparisons of utility scales make collective utilitarianism basically inapplicable. Finally, the origin of the needs, the satisfaction of which the utilitarian wants to optimalize is not taken into account nor is the transformation of them, due to the historical process in general and - this is important - to the attempt to maximalize collective happiness itself (= need satisfaction) taken into account. The utilitarian calculation, due to its unhistorical nature, remains static and is unable to distinguish between alienated and unalienated needs (the first of which should be treated otherwise than the second).

In view of all this, I do not believe that the utilitarian justification of human rights is successful. These many failures to justify human rights rationally compelled me to change my direction of thought. Despairing to find a legitimation of the platform of human rights from which the child liberation movement wants to derive the rights of children, I reminded myself that after all, the whole movement starts from the perception of thwarted needs (those needs we just met in confronting indirect utilitarianism).

4.C. In social work, a rich literature about human needs exists. Could not this literature help us ? Human rights are fundamental in the sense that 1. all humans have them, regardless of what they do or are. 2. no human can abandon them. 3. If a human being has them, he (she) has them in virtue of being human, and given the meaning of "having a right". Could there not be needs, that are in some similar sense, fundamental : 1. all humans have them. 2. no human can cease to have them and survive as a human. 3. If a being has these needs, it has them in virtue of being a being with needs. I shall call these needs "basic needs". The reader will recognize the formal, similarity between "human rights" and "basic needs". But a need has a major advantage over a right. We were not able to define rights, but only patterns for their defense. We are able to define needs as strivings that when unsatisfied cause real pain, and when satisfied cause real happiness. (without by their unsatisfaction also causing joy, or by their satisfaction, also causing pain). This definition allows us to distinguish needs from desires (still more easily observable, but satisfying only part of the mentioned conditions), and constitutes a class, membership of which can in principle be verified or falsified. This is the huge advantage of needs over rights. Would not the appeal of the child liberation movement be as strong, if it were able to prove that there exist basic human needs that are thwarted in children ? If it wished, it could still define human rights as the satisfaction of basic human needs. This last step would add the difficult concept of right, to the less difficult concept of need. For the moment, I would already be satisfied by the proof that there are basic needs, that they can be discovered, and that we can observe to what extent these basic needs are not satisfied in the lives of children.

I consider Len Doyal and Ian Gough's paper "A theory about Human Needs" [20] as the most thorough treatment of basic needs I am familiar with. When analysing it however, I rediscover, alas, expressed in the language of needs, the same Kantian reasoning we met in the attempts of Alan Gewirth to justify human rights. Doyal and Gough call a need basic, if its satisfaction (!) is necessary for the pursuit (!) of the satisfaction of all other non-basic needs (or for most of them). They distinguish basic biological, socio-psychological and cultural needs. The basic biological needs are need for food, drink, shelter, sleep, sexual release. The basic socio-psychological needs are needs for communication, companionship, positive evaluation by others, play or leasure, work, relative autonomy. The basic cultural needs are needs for posessing of the basic skills necessary for performing the instrumental and ritual activities the culture is constituted by. In our culture among these skills would be found reading, writing, calculating, forms of politeness, rule obeying in civil life, adherence to certain basic norms. Only if these basic needs are satisfied, according to Len Doyal and Ian Gough, other needs will develop (for more

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specific forms of biological, socio-psychological and cultural satisfaction) and be able to reach partial or complete satisfaction. Doyal and Gough, following Galtung and Plant thus consider basic needs, to be aims that have necessarily to be reached by any human, if this human is to be able to act successfully in any way. Basic needs have to be discovered by rational and empirical inquiry, people may be unaware of them, investigators may disagree about their description, but, as conceived by our authors the fact that the realisation of some aim is a basic need is an objective fact about human nature, escaping all relativistic doubts. The striking example of the diabetic desperately craving for sugar but needing insuline shows clearly their stress on the distance between wish and need. The proof of the mentioned necessity may be given by purely formal, purely empirical or mixed formal - empirical means. The whole approach is consciously Kantian [21] ; basic needs are necessary conditions for the possibility of all need satisfaction. But there is a remarkable identity between basic needs, and human (as described by - f.i. Gewirth).

1. In order to be able to act, a human being must be physically and mentally healthy.

2. In order to be able to act, a human being must have the capacity to formulate purposes and strategies to reach them. This presupposes teaching of language, communicative and calculative skills. Habermas' universal pragmatics and Piaget's genetical psychology of mathematics give content to the fundamental teaching requirements. The authors stress also that in order to reach autonomy to act, specific types of interaction are presupposed !

3. All humans live in societies. All societies need material production of goods, in order to produce the necessary surplus over the necessities of consumption to generate the production of instruments and accepted rules for the distribution of goods.

4. All human societies need social reproduction by means of regeneration.

5. All societies need adequate communication networks to coordinate 3 and 4.

6. All societies need a political authority capable to enforce by sanctions the rules implicit in 1-5. This authority - I emphasize - is not necessarily a state.

For our purposes, it is important to stress that children are repeatedly mentioned in this list of basic needs (in 2, when the necessity of teaching becomes obvious, as in 4 where reproduction.[22]
The reader might consider this line of thought to be a revival of Parson's functionalism. It is not however : all six conditions are - at least in principle -derived as prerequisites of individual human action (the analogy

with the totally different approach of Gewirth is really striking).

7. All human cultures satisfy to a certain extent the basic human needs (although they do this in widely different ways). The strategies of realisation evolve historically. It is a basic need to optimalize the realisation of basic needs. However in order to achieve this optimalization, it is necessary a. to multiply the available realisation strategies, b. to increase and spread out the information about their properties, c. to maximalize the possibility for agents to choose between the different strategies. In other words : because needs satisfaction modifies the needs satisfied, and because needs are never completely satisfied, there is a basic need for progress, and one aspect of progress is emancipation (defined by a, b, c). Habermas' theory of communication allows - according to Doyal and Gough, the definition of the forms of discussion that will enhance progress and emancipation in production, distribution and consumption, of material, energetic and information goods. Our paper is basically concerned with the realisation of power free dialogues about and between groups intrinsically different in power (adults and children), (this dangerous inequality is recognized by Doyal and Gough).[23]

8. The last basic need (in clear contradiction with many conscious wishes and desires) is the restriction of progress to such strategies that preserve the quality of the environment, necessary for the survival of the species.

This construction, interesting as it is, again rests on the rock bottom of a concept of human essence or nature.
The basic needs are not proved to be essential for having needs as such. A semi-kantian deduction of specific needs from the abstract concept of need as such, does not occur. It could perhaps be performed, but it belongs certainly to the future to do so. I may be wrong, but, nothwithstanding the pointed out advantages of the concept of "need" over the concept of "right", the setting up of a defensible list of basic needs meets as strong obstacles as the setting up of a defensible list of human rights.

An exercise in science fiction might convince the reader of this point. Let us take as our starting point not the, intuitive but still difficult, concept of need. Keeping in mind of Lévi Straus' proposal to base human rights on our status as organisms, let us do the same for needs ! Let us introduce a very abstract model of an organism. We call organism an open system, receiving matter, energy and information, capable of reproduction, having the ability to learn, to improve its learning capacities, and to form higher order social systems posessing the same properties. Such a system posesses a number of retro-actions, feedbacks of different orders, and functions according to a program. The basic needs of this robotic organism are imperatives in its program providing an environment wherein it is able to function. Its "robotic" rights will be the capabilities it will prevent others to infringe upon, because their hampering would prevent homeostasis, homeorhesis, input, intake, output, learning, adaptation, robotic coalition. It would not be impossible (though rather ridiculous and unappealing rhetorically) to derive a certain number of articles of the 1948 declaration from such "inhuman" starting points ! (To take some examples : a machine capable of learning will try to preserve its possibility to learn and will try to learn in fact : article 26 ; machines able to form coalitions will defend their possibility to do so : article 20.1 ; as mobility in coalition formation improves collective adaptation, the robots will have in their programs article 20.2, defending the right to leave coalitions ; article 14.1 goes in the same direction). These few, haphazardly chosen examples, show that a schematic organism could be taken as a starting point for the deduction of basic needs or human rights.

If this alienated human, this automaton, can be used for our purposes, we may certainly hope that at some future date even more abstract entities (f.i. "needs as such" or "agents as such") could be sufficiently clearly defined to yield the same services. However - if I am not deeply mistaken - even though the intellectual challenge of this play appeals to me, are we not very far removed indeed from the struggle of the children liberation movement ? I can only conclude that we are, and that, unhappily enough, if we enter into the labyrinth of founding human rights or basic needs, we cannot avoid following such abstract paths.

The analyses presented in 4 A, 4 B, and 4 C compell me to return to the "Bills of Right" of the "Children Liberation Movement" itself. I hope that they will be able in virtue of their concreteness and their closeness to the children we worry about, to give us more "insight" in the real problems we face.

5. Children's Rights

The reader is invited to look back to the basic syllogism (A) once more. We have done our best to refute the first rebuttal. We failed. We did not fail completely and we learned - I hope - something. We failed as things are, and we cannot wait for philosophy of law to make major progress, before taking action in favour of children. However - I repeat - we failed. Now we face the second rebuttal to the basic syllogism : are children not very special creatures who, by their very "nature" (we meet our old friend "nature" again, in a new disguise) have "specific rights" (not derivable from but as inalienable as, human rights), not necessarily of equal scope - both more and less demanding. We shall try to see if we can avoiding "human rights", basic "needs" still come to a defense of "children's rights".

The plan of this paragraph is as follows :

1. I analyse two well-balanced, factual accounts of the legal actions taken in the United States to defend children, in order to show the advantages and disadvanteges, the promise and the limits, of legal measures. I use Jane Knitzer "Children's Rights in the Family and Society, Dilemmas and Reali-

ties[24] and Michael S. Wald "Children's Rights - A Framework for Analysis.[25]

2. Having looked "from the outside", I plunge in medias res, and using Beatrice Gross and Ronald Gross "The Children's Rights Movement",[26] I try to understand the claims made by the Youth Liberation Movement as voiced by itself. I shall also use the interesting overview by E. Verhellen and F. Spiesschaert.[27]

3. Withdrawing again from the heat of the battle, I discuss the moderate philosophical view of Colin Wringe in his "Children's Rights".[28]

1. Historically, children have been considered as weak, vulnerable, imperfect human beings needing protection, education and control. (The first to prevent them being harmed, the second to lead to adulthood, the last to prevent them harming each other and adults). A love-hate, tenderness-fear relationship seemed to exist between children and adults (expressed in these three convictions). The social authorities giving protection, education and control were family and institutions (either belonging to state and/or regional authorities, or to private groups, such as churches). Recently, however, given the functional loss of the family, doubts arise about its capacities to protect, educate and control. On the other side, given the increase in complexity, the law efficiency and the rising cost of the welfare state, equal doubts arise about its capacity to protect, educate and control. The churches lost their appeal in consequence of secularisation. Finally, family, experts and state compete with each other for the privilege, power and income attached to child care. This competition undermines, concurrently with the historical development described, confidence in the childrearing agencies. Confronted with this state of affairs, three different attitudes prevail.

1. Either one attacks the factual premise, (the classical definition of the child), by means of psychological and sociological arguments, stating that :

1 A. To a certain extent varying with differents sectors, children can protect, educate and control themselves.

1 B. Society can be transformed so that 1 A. becomes true, even if it is false here and now.

Or one proposes new institutions :

2. Children should be protected by constitutional rights against families, experts, state agencies and private groups.

3. Certain authorities should be given more power and means (as ideologies

differ, this will be 3 A. the family ; 3 B. the experts ; 3 C. the state ; 3 D. private groups (among others churches).

Before entering into details I want to stress that the appeal to constitutional rights mentioned under 2 is only an instrumental device : we have left the lofty heights of the human rights debate to come down to earth. Here we meet only special interest groups of educators, social workers, parent groups, state legislators that, driven by social, political, economical and psychological motivations struggle to factually modify the status and services offered to children. We do not doubt that these special interests groups are partly driven by their concern for children's welfare. The species could not survive if adults did not care for the young. But the dispute is concerned about means not about ends. We want the young, to be as happy as they can be, and to grow up as happy and creative adults. This being our postulate, how do we reach our aims ? Michael S. Wald correctly points out that such strategy debate should not lump together all claims made in favour of children, but should classify them in natural kinds, deserving different discussions. The claims, arising from the concrete state of affairs just described, are being discussed in the public arena; for this reason, once more, we oppose the individual to the world, man to nature, ego to alter. Our concern takes the form of disputes about rights to be conferred on children.
Wald's first category of rights, claimed for children, simply derives from our desire to protect them. These rights state that children have the right not to be poor, to dispose of adequate healthcare, to live in adequate houses, in safe and agreeable neighbourhoods. The reasons for these claims are clear : if we want (as we do, in fact, being mammals) our children to be happy and to become happy and competent adults, we certainly want that, in fact they have all these goods and services. However, we want the same goods for our adults, and yet we tolerate societies in which millions of adults do not enjoy these goods. Such claims against the world, can only be satisfied in a society with high productivity and egalitarian organisation. In other words : in an efficient (!) socialist society. It would be good that we all became aware that, even if our indifference towards adults makes us admit exploitation and oppression this same indifference condems many of our children to lives impaired from the beginning by lack of adequate food, health care, encouraging environment. Only macro-political action can help here.

The second type of claims still derives from our desire to protect our children, but now ask for goods and services that are not necessary for all humans, but specifically needed for children. Here the factual premise is still active that children cannot take care of themselves, and need help. But the new situation is that we are now aware of the fact that many families, schools and institutions do not take adequate care. We want to raise the standards. We do not want parents that allow their children to be engrossed by violent and sadistic TV-programs, who nourish them inadequately, beat them frequently, who allow them to appear in pornographic movies, to engage in child prostitution or force them to commit incest. We want to impose obligations on the parents, (refraining them from behaving in such ways), and we do not yet want to confer rights to children ! In fact, most children enjoy violent movies, fattening foods, some prefer being child pornography stars or prostitutes, and though most suffer from beatings or incest, quite a few would prefer to submit rather than to have their parents removed or being committed to an institution. These claims are not freedoms we want to give our children, but expressions of our own value judgements about what a good parent should be, value judgements that can be defended by factual research : incest and prostitution endanger the future sex lives of children, violent movies empoverish their emotional life and their taste, fattening foods threaten their health, repeated beatings endanger their self esteem and may well create incurable aggression and impossibility to relate. There are doubts about the best strategies to ensure protection against these evils. However, the protective measures proposed do not change the status of the child : it remains a dependent creature, the situation of which "we" want to improve.

The third category of claims wants to confer to children most rights of adults. (Right to vote, marry, drive, drink, work, express themselves freely, read what they please, avoid unvoluntary confinement - this entails rejection of coerced schooling - right to be represented in law courts). All these rights were historically denied to children, because they were considered as unable to make considerate rational choices, and because they were considered as the natural recipients of special care, incompatible with those rights.

Certain of these claims, assimilating children to adults, have been accepted in the U.S.A.[29] It is significant to see what happened :

1. The famous US Supreme Court decision "In re Gault" and some others give a minor the right to be represented in court when expelled from schools or accused of delinquency. The reason obviously must be that the Supreme Court recognizes that neither parents, nor institutions give sufficient guaranties to represent the "best interests" of the child. This de-construction of society, or rather increased awareness of what has always been the case, but remained ideologically hidden, is a major change. However, no consistent theory of children's rights was reached : corporal punishment (if not excessive) is still legal in the U.S.A., and the defense of minors in delinquency cases is not completely homologous to the defense of adults.

2. The minimal ages at which voting, driving or marrying are allowed vary from state to state, but show a tendency to decline. Here, both genetic psychology and sociology should be used, in interdisciplinary collaboration, to compare the intellectual and emotional ability of children of different ages, and temperaments to those of adults of different ages and temperaments in the different domains of decision. Decision making of children before 12 has not much been studied, decision making of adolescents received more attention but is far from understood.[30] Decision making of adults has been widely studied.

I venture the following conclusions however : 1. most adults come to most decisions in a way not obviously more rational than most children. 2. however the optimal decisions (rare as they may be) of older adolescents and adults take more alternative actions, more complete lists of effects of these actions, and more long range interests into account than the optimal decisions of younger adolescents and pre-12 year old children. 3. the degree of rationality depends strongly on the sector of activity concerned, the ego involvement, the emergency and the emotional state, as much so in adults as in children. Moreover not only the individual variables should be taken into account, but also the social variables. As Wald himself mentions, driving in rural states being less dangerous may be allowed at younger ages than driving in a metropolis. Obviously all strict age limits are arbitrary. A child of 13 may be more mature than an adult of 40. But equally obviously individualising would lead to endless and costly litigation and to limitless possibilities of corruption. Thus a certain amount of arbitrariness cannot be avoided. I would formulate the following proposal : 1. to have a right, the person must be psychologically and physically able to exercize it : this means that an infant before 2 years can obviously not have the rights we talk about. Moreover, a person unable to read or write cannot have the rights to drive or to vote (as s(he) cannot read road signs or understand candidate's arguments). At this rate we already arrive at 8 or 9 years. 2. Those rights should be conferred earlier whose exercise causes less irrevocable harm, and, even those rights whose exercise may cause irrevocable harm, must be made less dangerous, by adequate preventive measures. Concretely : a. one should confer the right to read whatever the child wishes earlier than the right to express itself and wear clothes as it prefers, the right to be represented in law courts as early as possible, the right to express oneself by means of words and by clothing earlier than the right to vote, the right to vote earlier than the right to drive, the right to drive earlier than the right to drink, the right to drink earlier than the right to work, the right to work earlier than the right to interrupt schooling, the right to interrupt schooling earlier than the right to marry. All these rights can only be conferred however if and in as far as they are accompanied by measures that limit the considerable dangers that always accompany the freedom : the right to vote, conferred very early, must be accompanied by restrictions on political rhetoric and clear efficient public information about the topic. The right to drive presupposes the existence of severe and competent examinations, for adults and children alike, before a driving license may be acquired, the right to drink presupposes regulations on inns that are enforced on adults and children alike. The right to work demands severe inspection of working conditions (for adults and children alike), the possibility of returning to school at later age, and a change in the value system that decreases the importance attributed to fast ambitious carreers. The early right to marry presupposes the facilitation and humanization of divorce. The early right to drive presupposes severe speed limits. All these prerequisites however are fought for by activists who want to improve the life world of adults. I favor the legal attribution, in a progressive gradual, hierarchized way of these freedoms to children, because the arguments against them derive from the following false premises : 1. the superior competence and rationality of the average decisions of average adults. 2. the dangers of access to the adult world, a world so filled with harmful influences that only adults can survive them. To the contrary : 1. average decisions of average adults are not superior to average decisions of average children - but the regions and sectors should be taken into account. 2. the adult world as it exists is unfit, even for adults. Improvements however are being made and proposed. To the extent to which this world will be bearable for adults, it will be bearable for children. As it exists, it is unbearable for both.

Moreover, one major argument in favour of these rights moves me to join the Children Liberation Movement. The historical evaluation of families and institutions (f.i. schools) is such that even if abuse is absent, estrangement, boredom, inefficiency and indifference reign more and more. It is no longer possible to trust most parents and educators with the defense of the interests of the children under their care, the children should as soon as possible prepare to fence for themselves. This difficult and dangerous life will moreover prepare them to refuse submission to authority, a dangerous habit that families and schools foster and that prevents the emancipation of men in and from society and state. Pleading for more rights, I also plead for more responsibilities ! These issues cannot be separated.

Before closing my remarks on Wald's third category of rights, I stress once more that I am not defending them in isolation and wholesale. I favour them in a rational succesion, and in coordination with reform of the adult world. Moreover I defend children's rights not as human rights, based on human nature, nor as children's rights based on children's nature. I defend them as changes of positive law, desirable for historical reasons (the decline of family and state institutions for children, and the mobilizing effect they will have on more general reform movements that are already active, though not yet triumphant). In fact, I defend children's rights not because of the competence of children, but with regard to the incompetence of adults. Adults using the argument that children, near sighted, inconstant, dominated by short ranged and shifting interests, and uninformed do not deserve to have powers, they, adults deserve to posess, cause me to look at them with sceptical distrust. They are power holders trying to prevent a weaker group to share their power. It may be true that consiously most of them feel moved by the dangers they expose their children to, by leaving them to their own devices. But why do they never ask, what dangers these children are exposed to, by standing under their control ? I myself - the reader will observe how relatively careful I want to procede - am filled with misgivings. The choice is not one between good and evil. The choice is the choice of the lesser evil. This lesser evil is however unknown. The remedy may be worse than the illness. Taking this possibility into consideration, I recommend to move step by step, with caution and prudence. But as to the direction of the trip I have no doubt, emancipation of children from family and institutions, as soon as possible, as completely as possible.

As relations between women and men have been governed by the financial dependence of the former on the latter, so are the relations between parents and children. For reasons inherent in the uncertainity of economic development, (causing inevitably losses of jobs for huge numbers of people) a guaranteed minimal income, sufficient to sustain life, should, by positive legislation, be assured for all adults. I defend the idea to enlarge this "positive right" to children, to the extent they are able to manage it, and under the guidance (not the control !) of interested adults. Only if such guaranteed income is forthcoming will the "rights" (not natural, or human, but legal) defended earlier receive a positive content. Only at a given stage of capitalist development can minimal incomes be universally granted : the importance of this basic foundation of human independance is - I believe - much understressed by the militant members of the Children's Liberation Movement. In order even to be taken seriously as an issue the minimal income should be thought of as progressing with age (as the financial cost of the satisfaction of children's needs also progresses with age).

D. The most important - and most controversal - type of children's rights are rights to act independently of their parents, prior to the end of their period as "minors".
"The extreme view assert that all children, of any age should be free to make their own decisions ranging from what to eat and when to go to bed to where to live and what to study.[31] Such issues are usually only evoked to ridiculize the claim however : many of them are not sufficiently serious to warrant legal attentions and children themselves benefit (as will be shown by empirical research when carried out) more by a stable schedule and some reasonable limitations, than by the temporary gratification of whishes and whims.
The real issues are : 1. whether parents should have complete control of medical care a child receives (institutionalization in a psychatric hospital, psychotherapy, abortion f.i.), 2. whether parents should completely control the choice of schools and study, 3. whether parents should determine the child's religion, 4. the material the child reads or views, 5. the place where a child shall live. Such conflicts arise in reality (mainly between the ages of 12 and 18, but sometimes even earlier). According to me, they cannot be decided upon by a general appeal to human's or children's rights, but - as Wald very wisely points out - should be decided by considering five factors : a. whether the child can make such decisions adequately, b. if not, whether other decision makers are likely to arrive at better results than the parents, c. whether the state can in fact remove the decision making power from the parents, d. the costs of removing the decision from the parents (in terms of material costs for court and social service, and of psychological cost for the autonomy and privacy of the family, one of the last strongholds of personal identity in societies dominated by market and state, the material and psychological costs of not giving the decision to the child but either leaving it with the parents, or laying it in the hands of competing experts as (f.i.) lawyers, judges, social workers, physicians). e. What rights - if any - of other persons (f.i.

the parents or society in general) would be harmed by giving the rights to decide to the child.

The very consideration of these factors who have to be taken into account, allows to decide about the degree of autonomy that can be conceded.

1. It is practically impossible (and highly undesirable) to post policemen on a day long basis in all households. For children living with their parents, the rules of the household will have to remain the rules of the children. However, as many parents are not loving their children, or at least not all of them equally, or are, in virtue of their occupation or state of mind, unable to care for them, children must have a right of final recourse (a child's telephone, a children's lawyer or official children's representative) against parental abuse or neglect. The fact that this right is officialy recognized and widely publicized will have already a symbolic deterrent effect (one may hope - without being certain).

2. The concrete issues enumerated above are of another type however : they concern the whole future life of the child, and determine its global personality. Given this global and durable impact, I would defend that the greatest possible autonomy be granted to children in these matters. Various reasons plead in favour of this opinion : a. Most older adolescents already exercize parts of these freedoms. b. The persons most deeply concerned should have the right of last decision. c. If the conflicts between the parent and the child on such essential matters are really deep, it is unlikely, that the most powerful party should be presumed to have the best interests of the child as its only motive. The problems that remain are : should the child decide completely autonomously, should she or he be required to consult experts (keeping the rights of final decisions), should the experts decide ? The reasons put forward, entail that one should not replace the parents by other decision makers. Experts, for other reasons than parents (social distance, heavy case load, burnt out, short time involvement) do not provide better guarantees than parents (who may be thought, in virtue of their long association with the child they sometimes partually identify with and are tied to by long acquaintance, to have some positive feelings and some commitments, even though many are egocentric, unfeeling, stupid, authoritarian and consciously or unconsciously cruel or indifferent). So in most cases, considering factor b, the expert - if present at all - should only be a consultant. The powers of legal officials, accustomed to deal with abstract legal matters, ensconced in "officialese" and deeply bureaucratic, are especially to be feared : (and so to be minimalised).[32] However, even if it is in the best interest of the child to decide itself on the serious matters under consideration, is it able to do so? Here genetic psychology and social psychology should be consulted. The necessity of an interdisciplinary approach becomes evident. We should have at our disposal empirical studies about children's decision making capacities in the sector of medical care, abortion, psychotherapy, religion, schooling. We do have very few of them. Jean Piaget's Geneva school[33] has however shown that intellectually,

a child of 12, functioning at its peak (! important proviso) posesses the ability of concrete operational thought, enabling it to decide rationally in concretely present situations. From 12 to 16 the child - according to the Geneva school - acquires the ability to engage in abstract formal thought, considering hypotheses contrary to fact, deducing their consequences formally, and becomes able by varying independently an increasing number of variables to discover laws and regularities. The number of variables one is able to manage, depends on personal cognitive style, the sector of action one is engaged in, and to a yet unknown degree on age. As an ex associate of Piaget, I want however to point out that he studies optimal, not average behaviour (!), in experimental - and affectively neutral situations - and is basically interested in the ordinal succession of the stages, not in the precise ages at which they appear. Evidence is piling up moreover, that makes stages context - dependent. (in certain decision tasks, a child may be far more advanced than in others). These remarks explain why both defenders and opponents of the Children's Liberation Movement appeal to Piaget. Speaking from experience, I am convinced that his results encourage neither the ones nor the others. I only want to report that he himself recognized that most adults in most situations function on a pre-formal level (as most children of 12 in most situations function on the symbolic level that precedes the concrete operational one). Political propaganda and commercial publicity take the low levels of adult public thinking into account. This being the case, from the point of view of intellectual development, I deem it advisable that the decisions about vital matters, if no consensus can be reached between children and parents, after the age of 12, be left to the child. The more respect it receives, the more confidence it will acquire and the more responsibilities it will be able to bear. In discussions about the practical implementation of children's rights, not only genetic psychology is used, but also symbolic interactionism. Symbolic interactionism, as a movement in sociology, is derived from the pragmatists John Dewey and George Herbert Mead. In Mead's posthumously published "Mind, Self and Society" [34] Thinking is basically considered as acting and the basic problem is to explain how people acquire a "self" (in other words : how they become object of their own thought and action). His basic conviction is that we acquire the possibility to act refering to ourselves as object (as "selves") because by interaction with other human beings, we learn to take roles, to act as if we were the others. Language is for Mead the basic tool of the role taking process. Children first look upon themselves from the point of view of specific "significant others", and finally reach the point of view of "the generalized other", the expectations of the group as a whole. This process of continuing interaction broadening our perspectives, is a constant negotiation about the interpretation of our own and others actions. The negotiation about meaning remains always open, and gives an active and constructive function to both "I" and "others", (in our case : to one child, other children, the adults). Interaction finally becomes transaction "a fitting of the developing action of each into that of the other to form a joint, or overbridging action". Social interactionism stresses, in contrast to functionalism or social systems theory, strongly the variable and pluralistic character of social interaction. Irving

Goffman specially shows, in his perceptive empirical studies, how even in most oppresive environments, people remain able, really or symbolically to find some freedom of choice, some "room of their own". In his theoretical work "Frames" using theater as a metaphor for social life he shows how we can, performing our roles in given frameworks, construct meta-frames of irony, play, pretending, allowing to escape. I have been struck by the analogy of the general genetic trend of Mead and Piaget : both are pragmatists, both conceive of development as decentering, acquiring the possibility to take the point of view of the other (most readers did not see this analogy until now, because Piaget used it to develop a system of formal operations, the I.N.R.C.-group, exhibiting the structure of the functioning of the generalized other when confronting the material world, while Mead, Blumer and Goffman, strangers to logic and mathematics, were primarily interested by the construction and de-construction processes, never to be achieved, of concrete interpretations and meanings. The analogy is easily explained both by the truth and by the influence of George Baldwin on each of the two schoolfounders). Social interationism's argument in favour of Children's Liberation may be constructed as follows : 1. If development occurs through action and interaction, it is improved and accelerated by giving children an active role (implying sufficient autonomy). 2. The construction of a rich and stable self is encouraged by making children interact in as many as possible varied settings with other children and adults (in other words : by getting them out of home or schools, ghettos) as soon as possible in responsible life situations, where they can gradually grow into the adult roles of many significant others and of the generalized other). 3. The free negotiation of meanings that constitutes social life can not be avoided anyway; this being the case, it should be encouraged.

The case of social interactionism is impressive. To be sure, it is weakened by the limits of social interactionism itself. 1. Behind so much uncoordinated individual negotiation, how is the systematic stability of society preserved ? 2. If so much is created by labeling and stigmatisation, what is the contribution of objective reality to our models ? Acknowledging these criticisms, I want however to live on the side of the angels : so many vested interests encourage research on the incompetence of children and of the common man that I want to encourage research directed towards the discovery of the competence of children and the common man. Let the onus probandi rest on the shoulders of those who claim that children are, on the grave matters we are concerned about here, worse decisionmakers than adults ! Research on social matters cannot be neutral. We know that we do not have sufficient empirical data at the present moment to come to definitive decisions. That we are so poor in this respect is not a contingent fact however (people simply did not want to look into these problems !). Let a joint research effort be made by post-Piagetans and post-Meadians, conceived as action research about the decision capacities of children, and on the pedagogical effects of entrusting them with greater responsibilities !

Many readers will be astonished by our lack of reference to Freud. Will not the

Oedipian battle, resumed in adolescence after the latency period, create large numbers of conflicts, at present covered up by the authority of the family but ready to erupt in numerous demands to live alone, to reject the parents' values ? This may be. But the Freudian affinities are as compelling as the Freudian antagonisms; moreover the necessary ambivalence felt, - according to Freud - by parents with reference to their offspring, (and reciprocally) make us, concerned observers, wory of leaving too much in the hands of the symbolically so overwhelmingly powerful myths that are fathers and mothers ! We conclude here this intermezzo, having the purpose to place Wald's discussion in a wider perspective.
A major objection against increasing children's rights is their alleged danger to family harmony and autonomy. This danger is real. If - as always - with misgivings, I propose to override it, I have two reasons 1. parents are less willing and able to assume responsibility for children. This tendency exists anyway. It will not be deeply influenced by a loss of power : legal movements follow social movements, not inversisely.[38] 2. Precisely the former fact constitutes a new, strong argument, in favour of assisted and protected children's autonomy. (I realize the dangerous and paradoxical character of this concept). I find Wald's approach by far the best analysis of the question I have encountered. I have tried to bolster his arguments with some extraones, to point out its philosophical and political implications, coming to more radical conclusions than he does. He ends by stating that he raises more questions than he answers. I feel the same. He calls for a broad interdisciplinary examination of the concrete problems of the concrete rights. I completely share this view. He contrasts his piecemeal, empirical approach with the general human rights approach. I see the same contrast, but, much more strongly than he does, I definitely prefer the empirical to the abstract approach, after canvassing with the reader the literature of the abstract approach in the first part of this paper (and having found it to be wanting).

Jane Knitzer's study mentioned above, is of the same detached and concerned nature as Wald's. She clearly shows how children are helped and harmed by their families, how they are helped and harmed by institutions, how they are helped and harmed by experts. In this complicated situation sometimes the defense of the welfare of the child means defending the family against the institutions, sometimes the institution against the family sometimes the family against the experts,(sometimes the reverse), sometimes the experts against the institution, sometimes the child against all (family, institution, experts), or some of these instances, sometimes the state (or rather society) against all of them including the child ! There are no simple solutions ! Knitzer (as much as Wald) deplores the inconsistency of legal decisions in various cases, and the absence of empirical research on f.i. terminating or not terminating parental rights of retarded parents, of fostering parents, of abusive parents, on the slowness or inefficiency of judicial process, on the impact of lawyer's interventions in family disputes, on the advantages or disadvantages of placement over neglect, on the superiority or incompetence of legal or mental health services. Equally absent is empirical research on the consequences of the defense of children against school systems or state institutions (that, as much as families, may abuse, neglect and oppress children). Will increased control paralyze institutions or encourage their efforts ? Knitzer, faced with all these uncertainties, nevertheless concludes that the Children's Liberation Movement (even though its effects have never been adequately evaluated and though litigation in "parents versus children" issues sometimes benefits the children, sometimes benefits the parents, and sometimes both.[36] (I would add : or neither), has had a significant impact in raising the consciousness of the service providers ... made highly visible some of their hitherto underplayed potential for harming children ... has resulted in a very positive and promising interactive relationship between lawyers, helping professionals and social scientists.[37] However, in the U.S.A., where the movement has been most impressive and in virtue of abuse and neglect statics, most needed[38] the very success of the Children's Liberation Movement has provoked strong rejection reactions by interest groups of parents and institutions, threatened in their monopoly. Knitzer's paper was published during the presidency of Ronald Reagan. Perhaps the "moral majority" will return to its silence after the disappearance of this actor and those who employed him. However, I have sufficiently stressed the necessity to link the attribution of rights with social-economic reforms, to warn the reader that pressing for - in my eyes defensible, anno 1988, - positive legal rights (necessary to preserve the human potential of future generations, not derivable from abstract human rights) will encounter the staunch resistance of those who strenuously reject the socio-economic reforms without whose presence child liberating decisions lose most of their content (even though they remains usefull).

When we turn to the statements of militant members of the "Children's Liberation Movement", the most extreme demands we meet are those made by John Holt, and Richard Farson.[39] Why not a Bill of Rights for Children ?, by John Holt,[40] and "Birthrights" by Richard Farson.[41] I am most impressed by John Holt. He is obviously aware of the political option in favor of a socialist society his Bill of Rights presupposes, but seems unaware of the tragic problem that he has to defend children's rights in a capitalist society in which rights conferred by law can easily be used for purposes contrary to their intended function. Let us take a look at his bill of rights[42] :

1. The right in any situation to be treated no worse than an adult can be.
2. The right to vote and take full part in political affairs.
3. The right to be legally responsible for one's life and acts.
4. The right to work for money.
5. The right to privacy.
6. The right to own, buy, and sell property, to borrow money, establish credit, sign contracts.
7. The right to direct and manage one's own education.
8. The right to travel, to choose or make one's own home
9. The right to receive from the state whatever minimum income it may guarantee its adult citizens.

7-

10. The right to seek other guardians than one's own parents.
11. The right to do in general, what any adult may legally do.

We have discussed most of these rights earlier, and John Holt is obviously a practical person, much impressed (as I amby the fact that everything a child is needing when it needs "affection", "security", "protection" is also needed by adults,many of which lack, as severely as children these .....) that every child wants to grow up, and wants to be treated as an equal. With all this I agree. But he seems to forget that children also want not to be treated as adults, to be playful, volatile, irresponsible, vague. And that adults, in other ways, have the same needs to regress but hide them better. The contradiction deriving from these conflicting needs is present in adults and children. Showing itself more openly in children, our response to it becomes more difficult. Holt is aware of the fact that his rights lose much of their appeal when not enforced together (even though some of them are more important or more easily enforceable than others). In this paper, I have chosen to discuss them piecemeal because this seemed to me the more realistic approach. However, the reader will realise that I endorse, in a gradual, hierarchised fashion, the fight for those rights (but I would make my priorities and strategies dependent on the result of research not yet undertaken). But, I realise that :

1. The right to be treated as an adult is the right to be exploited and oppressed.
2. The right to vote is the right to delegate one's power to a (sometimes) dishonest power-broker.
3. The right to be responsible is the right to be punished by an inegualitarian and inhuman penal system.
4. The right to work is again the right to be exploited.
5. The right to privacy is even for adults, daily infringed upon by databanks, medical reports, identity cards.
6. The right to financial independence is the right to be a capitalist.
7. The right to direct one's own education is the right (in present circumstances) to condemn oneself, unwantingly but irrevocably, to drudgery and non-creative labour.
8. The right to choose one's home is the right to select among the majority of houses that are not homes, another "house" than the one known, instead of "a home".
9. The right to minimal income, is the right to cultural deprivation if the income is not high enough, and, if it is high enough, it is granted by no collective body at present in existence.
10. The right to choose another guardian is only useful if the rights of a guardian are limited by the child and if a guardian better suited is available (a state of affairs not always, and even seldom, realised)
11. Simply repeat what was said earlier.

The reader will understand that I intentionally blackened the situation as much as I could, in order to make a point : our societies are not healthy, well

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protected places, for the non wealthy and the non powerful. By definition, children using their autonomy belong to the non wealthy and the non powerful. Still, I do agree with Holt (and Farson) to a certain extent : we have - for reason stated earlier- to fight for the realisation of those rights. This entails however that we accept to fight for changing our societies. Which task has priority ? We should fulfill both of them together. But the changing of society will go slower than the changes of childhood. This being the case, for every given right, we should (as Wald and Knitzer propose) have to weigh the balance of costs and benefits. Here my adhesion to the radical program ends.

Before briefly analysing the voice of the opponents, let me add that Farson's style is already more rhetorical than Holt's but that both are outdone by the "Youth Liberation Program" of Ann Arbour.[43] These grandiloquent and empty shouts evoke no sympathy whatsoever in me. I can explain them as meeting style rhetoric, but I cannot condone their generality abstraction, lack of insight in the practical difficulties, and even absence of an attempt to provide foundations. At the other extreme, the United Nations Bill of RIghts of 1959 is a sanctimonious and oily document whose 10 articles only mention rights of protection, (no rights of freedom). Where the Ann Arbour Document demands the absolute in a histerical shriek, the 1959 bill grants with condescension a name and nationality (pr. 3), social security (4), help for the handicapped (5), love and understanding, child allowances for big families and a mother (pr. 6), elementary free education and play, controlled by parents (7), rights to relief (8), protection against neglect (9) and discrimination (10). All this is granted in the whining voice of bad preaching; the problems of implementation and malpractice (justifying the distrust rightly shown by the "Children's Liberation Movement to all institutions concerned : family, services, state) appear not to exist.

Obviously, the intellectual justification of this addition to the Bill of Human Rights of 1948, will be of the same nature as the one we criticized when looking at the earlier document. We do not need to come back to the problem here : all former reservations apply.

I conclude that a sympathetic reading of Holt and Farson, in the light of the problems evoked by our reformulation of Wald and Knitzer will help to point out in due perspective the two, understandable but potentially dangerous documents (the one by its extremism, the other by its paternalism) of Ann Arbor and U.N. 1959.

Our paper needs to be concluded. We should not leave the reader however, without, presenting the opinions of a moderate, well informed and competent adversary of the "Youth Liberation Movement" : Colin Wringe, in his "Children's Rights".[44] The introductory chapter X, in the same spirit as Wald, classifies rights in different classes (rights of freedom, of participation, of welfare and special rights due to transactions) each characterised by specific ways of defending them. Although Wringe's and Wald's classifications are not identical they are not incompatible. The distinctions made are useful and according to us, clarify the debate. Equally useful is this pointing out the difference between an institutional definition of "child" (a child is a minor as defined by a legal system, or an uninitiated one, as defined by custom or religion) and a definition of child, founded on [45] needs, interest and capacities as may be thought to affect his legitimate expectations and the legitimate expectations others have of him. Obviously, not to close the case before opening it, the second definition is to be used. This being admitted, it is a pity to observe that Wringe, no doubt influenced by the tradition of English analytical philosophy refuses to use psychological and sociological data in the evaluation of the desirability of given types of rights. The advantages and disadvantages of this approach will become clearer as we enter into the analysis.

A. Children's rights to freedom :

As known we have a positive right to do something if a person preventing us from doing it can be sanctioned by legal action. This does not only mean that there is nothing wrong in doing it, nor that we should receive help to be enabled to do it. Having a freedom right in this sense is both stronger than the first interpretation and weaker than the second. Wringe distinguishes between active rights (rights to do something) and passive rights (rights not to be interfered with). Wringe recognizes that both adults and children are not completely rational. This means that both do not always consider all options open to them, do not evaluate all results of all actions, do not refer all considered results to all existing preferences or interests, do not use optimal decision criteria, do not discover optimal strategies to realise the aims chosen by application of the used criteria. Moreover an agent will be called morally rational if he also considers the different value systems of the persons whose interests his actions may affect.
The degree of intellectual and moral rationality of adults and children may be compared and measured to a certain extent. Wringe gives 3 reasons in favour of allowing an adult to make his own mistakes. First, making them is often a needed source of learning. Second, we are in general better judges and defenders (though no perfect ones) of our interest than others. Third, even if others coerce us to make the correct choice, this humiliates us and impairs our capacities of future action. If a child is totally uncapable to grasp causal connections and or to remember them, it cannot learn from mistakes. A child is not the best judge of its interests. A child is not ashamed of being guided by an adult. These assertions [46] are only true for a mythical child, according to me (as the contrary assertions are only true for a mythical adult). In adolescence, from 13 on, to a certain extent (!) all reasons in favour of letting adults make their own mistakes, also plead for letting children make theirs (if they cause no irreparable harm, and if it has been shown, by taking a clear stand and by offering as convincing and strong reasons one can master, that the adults present are deeply concerned, worried and eventually strongly disapproving). Before 13 and even after 13, there will be choices however in which a child is very weakly rational, is "playing with fire", is unaware (according to

loving adults) of certain needs, and - unconsciously - asks for guidance. What to do then ? This is the recurrent most difficult problem of our topic. After long consideration, we defend (with many doubts) that a child, able to communicate, to inform itself, be it even only six years of age, should as a rule, make its own decisions, and only for specific reasons, exceptionally, be deprived from its right to do so. The onus probandi rests on the adults' shoulders, because the danger of unwarranted use of stronger power is a major danger of human history. So our difference of opinion is reduced to a dispute about the extension of these domains and the methods to define their limits.

Our conclusion clearly deviates from Wringe's in this case. Obviously psychological and sociological data about the individual case will be of major importance (in opposition to Wringe's opinion). In fact, Wringe himself[47] implicitly concedes that in familiar or unimportant domains children have rights of freedom.

The case of passive rights of other children and adults is less controversial. Children as much as adults, have to be refrained from hurting the rights of others, (children or adults). This should occur as far as possible by reason, but, if necessary by violence. Only two difficulties arise : 1. if the choice between using reason or coercion is to be made by the caretaker of the child, this choice may be sometimes or often wrong and yet escapes judgement. 2. if the person whose rights one protects against the child is oneself, the extensions one gives to one's field of freedom is frequently too large. We should be aware of these dangers, but they cannot be avoided.

The passive rights of children (rights not to be subjected to assault, cruelty or abuse) are the same as those of adults. Wringe recognizes this but does not - according to me - give sufficient attention to the fact that they can - and are - so much more easily overridden. Most of his discussion of passive rights is dedicated to physical punishment. He defends it as normal, sometimes useful, rarely harmful if not exaggerated. The present writer knows that the case is fraught with difficulties, the defenders of "tough love" claim that a short slap expression of disapproval and concern, is accepted in child culture and may be needed to guarantee prompt obedience and to enable the discharge of parent's pent up emotions (parents also have rights, and often, have been abused by children). Still, the elimination of physical violence, is of such paramount importance in human history, physical humiliation and aggression are such major social dangers, and the relation between a person and his or her body is so intimate, that I take my stand against any form of physical punishment by either parents, teachers or other adults. Once more, I disagree with Wringe.

B. Children's right to participation.

Here, I shall present an argument of my own, rather than comment Wringe. The right to participate in the direction of the state in general, and in the

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direction of schools, educative institutions and homes are commonly denied because children are incompletely rational, dependant on adult power, historically tied to those who brought them into the world, not held solely responsible for the consequences of their acts, not materially selfsupporting nor capable to protect oneself, not contributing to social welfare.[48] Colin Wringe does consider these grounds against emancipation and, although he takes them seriously, he rejects them as too absolute. Children and adults are incompletely rational, children and adults are dependent on other adults power, children and adults are psycho-socially and biologically tied to their parents, children and adults are in many cases not completely held responsible for the consequences of their acts, and many adults are) just as children, not materially selfsupporting nor capable to protect nor contributing to social welfare. If these facts do not justify the disenfranchment of the jobless, the poor, the mentally ill or neurotic, all persons having parents alive, the corporally weak or psychologically vulnerable, they cannot count as decisive arguments against the participation of children in social decision making. On the contrary, them who have the longest to live and live in more exposed and uncertain situations, have as much the right as their elders to partcipate in the control of state, home, school and institutions. On the other hand however, a culture can only survive if its discoveries, tools and values are transmitted from one generation to the next. This need for culture continuation makes it imperative that those who are in closer contact with this culture (educating older children and adults) function as inspiring models (not as bosses !), vested with the authority of a competence and dedication that not all of them posess, but that should be presumed to exist if the social order is to be continued. In as far as a child is not moved by the cultural values, it should be mildly coerced to take cognizance of them before being abandonned to its own creativity (or lack of it).

Here we have, as I see it, two different arguments, the first establishes the right of children to participate in all collective decision making, the second establishes the right of educators to educate (and by implication denies children the right to participate in collective decisions about what should be taught and how it should be taught). This is a case of conflict of rights. One of the most difficult problems arising in the discussion of children's rights is this conflict of rights.[49] I agree with Wringe that there are genuinely conflicting rights (1), that if one right overrules the other (something that should necessarily happen if action is to procede) the right overruled is not extinguished (2) and that no general rules about goods, values or obligations can yield general rules for conflicts of rights (3) (if they would, the independence of the concept of right that we have defended would be in jeopardy). I believe that in our present case we meet a genuine conflict of rights. I myself would judge that the right to educate should overrule the right to participate in decision making, but only to the extent it is absolutely necessary for education and taking into account that the participation in collective decision making is on itself a most powerful instrument of education. My judgment is based on the - according to me - overruling concern of the reproduction of the cultural order. It should be shere hypocrisy however if I did not point out the internal contradiction of this same cultural order and the need for new generations to engage in experimental living, discovering new values and ways of communication. The whole difficulty of our topic is exhibited here in a nutshell.

C. Special Rights.

Special rights are rights created by specific transactions (work, gifts, promises). There can be no differences between special rights of adults or children, in as far as they are able to engage in the same transactions. However, the fact of being a child limits the number of transactions one is able to engage in. The consideration of special rights is mainly important for our purpose, because opponents of child liberation often reduce all rights to special rights, in order to limit their rights as much as possible. We agree with Wringe that rights of freedom and of participation arise from the fact that children (as adults) are separate independently existing systems, not subordinated to others, participating in separate and independent systems. This realistic part - whole ontology is the foundation of children's rights of freedom and participation, independently of special transactions.

D. Children's Welfare Rights.

A welfare right is a right to receive help or goods from others in circumstances of extreme need, when one is unable to obtain these things by one's own efforts.[50] Children are more than adults, by their very definition, in a situation which gives them these rights. They did not decide being born. Once in existence, society owes them maternal support, care, protection, guidance, and even, paradoxically compulsion (in as far as this compulsion is absolutely necessary to prevent substantial harm). This last right is fraught with dangers but still, it exists. These rights do not specify who is to guarantee their realisation (parents do not play, according to me at least, a privileged role, except by a decision of given societies or cultures). The rights themselves hold in se, against anybody. Among these welfare rights, the right to education is eminent because it derives from the right to protection from material need, the right to participate in decision making, to exercize one's freedoms, and to participate in as many values as possible.[51] It is essential to point out that education is a right, and not an obligation. It should be as extendend as the person educated wishes, it should be spread over life as s(he) wishes, and it entails that the person educated be not misled by censorship, false information, brased information or indoctrination in values that do not command consensus. Here again clashes of rights necessarily occur between the right to education based on economic proficiency (demanding that the young become as soon as possible as efficient as possible), and the same right based on freedom and participation (demanding polyvalent extended education). Difficult compromises will have to be found. I cannot offer recipes. I shall not comment on Colin Wringe's chapter 17. This chapter summarizes the extent of his agreements and disagreements with the tenets of child liberation. I myself had to reach a different compromise between the interests of succeeding generations but I recommend the reader the perusal of Wringe's careful considerations. I consider them as too conservative, and I believe that only socio-psychological research about alternatives will bring a decision in this field, where nobody has the right to speak with dogmatic certainty.

Looking back to the meandering thoughts of this paper, I conclude that I am not so much struck by human rights, based on human dignity. I rather feel deeply about man being an undignified, but lovable creature. This conviction about human indignity provokes in me indignation against those who claim to override the wishes of others, as much as against those who turn away from helping those who need help. My many doubts and hesitations are the expression of this two-sided indignation.[82]

Notes

1. I. and P. Opie, "The lore and language of school-children, 1959, Oxford University Press, New York.

   I. and P. Opie, "Children's games in street and play ground", 1969,Oxford University Press, New York.

   Denzin, N., "Childhood Socialization", Jossey Bass, 1977.

   Gordon, T., "Listening to children" (Ductch : Luisteren naar kinderen).

   Rogers, Carl, Wrightman, Laurence, "Attitudes towards children's right", Journal of Social Studies, 1978, vol. 34, nr. 2, pp. 59-68.
   The study of this literature falls outside the scope of this paper. Although the fact that persons claim to have certain rights is not a decisive argument for their really having them (if not subjectivism reduces the rights concept to nonsense), the attribution of rights to persons should take into account their actually expressed demand. I know this literature only through F. Spiessaert and E. Verhellen, "Jongerenombudsfuncties", Gent, 1986.

2. Bloch, E., "Naturrecht und Menschliche Würde", 1977.

3. See Reading Rawls (ed. by N. Daniels - Basil Blackwell - Oxford 1975). More specifically, see H.L.A. Hart "Rawls on Liberty and its priority" (p. 230-252), "Equal Liberty and Unequal Worth of Liberty" (p. 253-282).

   F. Michelman, "Constitutional Welfare Right and a Theory of Justice", p. 320-346.

4. Lévi Strauss, "Le regard éloigné", Plon, Paris, 1983, pp. 371-382.

5. Lévi-Strauss, o.c., p. 371.

6. Lévi-Strauss, o.c. p. 374.

7. Lévi-Strauss, o.c., p. 377.

8. Rawls John, A Theory of Justice, Oxford, Oxford University Press, 1972.

9. Frenkel-Paul, E. Miller, F.D.jr. and Jeffrey P., (eds.), Human Rights, see page 63 - remark by Hugo Adam Bedeau.

10. Rawls John, o.c.

11. Dworkin Richard, Taking Rights Seriously, Cambridge, Harvard University Press, 1978.

12. See Reading Rawls, (ed. by N. Daniels - Basil Blackwell - Oxford, 1975). More specifically, see H.L.A. Hart "Rawls on Liberty and its Priority" (p. 230-252), N. Daniels, "Equal Liberty and Unequal Worth of Liberty" (p. 253-282), F. Michelman, "Constitutional Welfare Rights and a Theory of Justice" (p. 320-346).

13. See f.i. Frenkel-Paul, E., e.a. (eds.), o.c., p. 1.

14. Frenkel-Paul, E., e.a. (eds.), o.c., p. 17.

15. in, Frenkel-Paul, E., e.a., (eds.), o.c., p. 35-55.

16. Frenkel-Paul, E., e.a., (eds.), o.c., p. 47.

17. Frenkel-Paul, E., e.a., (eds.), o.c., p. 101.

18. Frenkel-Paul, E., e.a., (eds.), o.c., p. 101-102.

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28. Colin Wringe, "Children's Rights", Routledge and Kegan Paul, 1981.

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37. Knitzer Jane, o.c., p. 492.

38. See, f.i., John Narrol, "The Moral Order".

39. In, Gross, B., and Gross, R., (eds.), o.c.

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42. Holt, John, o.c., p. 324-325.

43. "The Youth Liberation Program of Ann Arbour", in, Gross, B., and Gross, R., (eds.), o.c., p. 329-333.

44. Colin Wringe, "Children's Rights", Routledge and Kegan Paul, 1981. Part IV of this work offers a detailed analysis of "The Rights of Children", p. 85-162).

45. Wringe, C., o.c., p. 88.

46. Wringe, C., o.c., p. 107.

47. Wringe, C., o.c., p. 111.

48. see Wringe, C., o.c., chapter 12.

49. Wringe dedicates his chapter 3 to this topic.

50. Wringe, C., o.c., p. 135.

51. Wringe, C., o.c., p. 146-148.

52. I wish to thank Wilfried Roels, Frans Spiesschaert and Eugeen Verhellen, who brought me in touch with the literature on these difficult topics. They may perhaps disagree with some of my opinions, but I hope they shall recognize a serious effort to form the sketch of a heuristic doctrine.

CHILDREN IN THEIR OWN RIGHT : THE VIEW FROM DEVELOPMENTAL PSYCHOLOGY

Arlene Skolnick

In recent weeks, the American public has focused its attention on two matters concerning children. One is the shocking death of a 6-year-old little New York girl, Lisa Steinberg, who had been severely beaten by her father. The public was particularly horrified by the fact that this crime took place in a middle-class, well-educated family. Friends, neighbours, social workers, the police and the media struggled to understand how this brutal crime could have happened, what could have been done to save her, and how such crimes can be prevented in the future. "How could we", asked a popular magazine, "with all our wealth, power and vaunted humanity, so fail a child ?". A law professor in The New York Times answered that the system failed because the law condoned the use of force against children by parents and even teachers.

The second matter involves a very different issue, one that came before the Supreme Court and has not yet been decided. It involves an issue about which public passion also runs high-abortion. The court was asked to decide whether a state could legally insist that a pregnant teen-age girl has to have het parents'permission in order to have an abortion.

I have begun my paper with these two examples because they illustrate several themes I want to develop here :

1. Talking about children as persons in their own right is hard to do without also talking about the family and the state. Different as they are, both of these cases deal with the uneasy ambivalent relationship between the child, the family, and the state.

2. Talking about children's rights involves contrasting kinds of issues--children in their specific vulnerabilities, children as autonomous persons.

3. It is necessary to place children and children's issues in a social and cultural context. For instance, the two examples I have cited cannot be understood apart from their American setting--including American cultural values, religious conflicts, and legal traditions.

4. The relationship between developmental psychology and social and legal policies concerning children is problematic. Obviously there has to be some connection between legal conceptions of childhood and empirical findings concerning children's development. Yet the connection is by no means clear and direct. This is not to deny that psychology has important contributions to make

to the debates concerning social policy for children. Rather, the point I try to make here is that psychology cannot itself resolve these debates.

Children's Rights, Children's Development

Policy makers, lawyers and judges generally take one of three stances towards psychology and the other social sciences : They either ignore it -- this is by far the most common approach--or they rely on psychology for expert advice--assuming that research findings contain clear policy mandates waiting to be put into effect. A third issue is simply manipulative--the expert is called in to put the stamp of science on what is basically a value judgment. I propose a fourth alternative--legal and policy decisions concerning children should be informed by developmental research, but such decisions cannot be determined by psychological considerations alone.

It is impossible to make policies dealing with children without some developmental theory, implicit or explicit. Those who make such decisions must premise their choice on ideas about children's needs and capacities, how these change with age, what circumstances are good or bad for growing children, and some notion of where to draw the line between childhood and adulthood. These beliefs are not usually stated explicitly; most often they are tacitly assumed; Kalven has observed that legal systems sometimes are based on "premises so mundane and commonplace as not to need any systematic confirmation" [1].

The issues to be considered here resemble in some ways the tangled relations of law and psychiatry concerning the insanity defense. The inadequacies of the traditional legal definition of insanity--the disability to distinguish right from wrong-- led lawyers to turn to psychiatry in the hopes of arriving at a definition that would better fit social realities. Yet an adequate definition of legal insanity remains to be written. The moral of this tale is not that the psychiatrists muddied the waters, but that the issues are complex, and psychiatric knowledge revealed previously unknown complexities. Although it has proven to be hard to translate psychiatric knowledge into legal standards, it would be foolish to ignore psychiatric expertise in the making of insanity decisions.

Complicated as it is, the issue of legal insanity has at its core a fairly direct question which can be stated on gross terms--is he crazy, or isn't he ? There is no such simple question at the core of children's rights, but rather a complex and contradictory mixture of political, moral, social and psychological issues. The term does not refer to any coherent doctrine. As one writer put it, children's rights is a "slogan in search of a definition" [2]. The term, "children's rights", has been invoked in the name of such diverse and even contradictory "rights" as the right to freedom from poverty, to have a loving home, to vote at an early age, to have a childhood, and to have adult autonomy. Further, the legal status of children touches on difficult issues concerning family privacy, government intervention, social and economic practices and institutions, and psychological needs and capacities.

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The complexities are not confined to the legal side. Developmental psychology is a huge, diverse, and ever shifting field in which methods and concepts are undergoing continuing change.

What Are Children's Rights ?

As a first step, it will be useful to distinguish among the various kinds of claims being made under the heading of children's rights, and to see how developmental psychology relates to these issues.

Wald [3] finds four kinds of claims being made under the heading of children's rights : the first consists of claims for generalized "rights against the world", including such things as adequate housing and parental care; the second type of claim calls for greater state protection from abuse on the part of parents and other adults, such as television advertisers; the third involves claims to constitutional protections in regard to state actions, such as the right to legal counsel in juvenile court proceedings, due process in school expulsions, or free speech rights. The fourth type of claim involves challenges to parental authority. In such cases, children seek to act independently of their parents--or else ask a court to order their parents to treat them in a particular way. For example, a teen-age girl who did not want to accompany her parents on a trip around the world, sued them, asking the court to make them allow her to stay at home. Other such cases might involve the kind of case noted earlier, young people's rights to obtain abortions and other medical services without having to get parental permission first.

Most commentators distinguish between two contradictory thrusts to the children's rights movement; one aim is to extend adult liberty rights to children, the other aims at securing special claim rights for children on the basis of their special needs. Mnookin labels the two dominant varieties of child advocates the "child saver" and the "kiddy libber". A study of attitudes about children's rights found that such attitudes fall along two independent dimensions : a nurturance orientation calls for society's provision of services for the child--i.e., health care, quality education, protection from neglect and abuse--while the self-determination approaches call for the children to have control over various aspects of their lives. Wald's first two categories--generalized claims against the world, and state protection--fit the nurturance orientation; the last two fit the self-determination. Both kinds of rights can be claimed either against the state or parents.

From the point of view of the legal scholars, the least problematic type of children's rights claim is Wald's number three--where the state is the party in conflict with the child. Often, the issues in such cases involve basic human rights--the recognition that children are persons, entitled to such rights as protection from unauthorized interference with one's body--rather than claims on behalf of children as a category of persons with a unique set of needs and interests. Further, these cases do not challenge parental authority. Many cases in this area involve such issues as the right of a child to distribute religious literature, to wear an armband to school to protest a war, or to wear long hair in school. Although these cases seem to pit the child against the state, in fact practically all of them involve both parent and child against the state.

The most problematic and controversial kinds of rights are Wald's first and fourth--generalized claims against the state, and children's claims to autonomy from parents. The first is controversial because of what is being claimed, the second because of whom the claim is directed against. As Wald observes, "It is one thing to argue ... that a school without compelling reasons should not be able to dictate to a child and his parents the length to cut the child's hair before sending him to school. It is quite another to argue that the child who wants long hair should be able to have a court order his parents not to cut his hair" [4].

There are a number of problems with the type of claim which translates children's psychological and physical needs into the language of constitutionally recognized rights. Without denying that the basic needs of many children is this society are shockingly neglected--statistics on infant mortality, child health, and the number of children living below the poverty line tell part of the story--many writers point to serious flaws in the strategy of attempting to meet these basic needs by labeling them "rights". As Wald observes, these are not claims for adult rights that are denied children. Rather, they are moral and social goals that would benefit adults as well. They cannot be obtained by court order, but must be addressed by the political system.

The Role of Developmental Psychology

Where does developmental psychology fit into this complicated and contradictory array of rights ? Psychological questions are obviously being raised whenever children's needs, psychological capacities, or relations with parents are at issue. Psychological considerations are not relevant where the issue is one of fundamental human rights; a month-old child is as much a person in the eyes of the law as an adult.

Traditionally, psychology has had a great deal to say concerning children's nurturance needs; psychologists have been prominent in the drawing up of children's Bills of Rights, for example. Although psychologists have recently been arguing in favor of autonomy for adolescents, developmental psychology on the whole supports the traditional legal view of children as dependent and incompetent beings. This view was stated over 100 years ago by Jeremy Bentham :

The feebleness of infancy demands a continual protection. Everything must be done for an imperfect being, which as yet does nothing for itself. The complete development of its physical power takes many years; that of its intellectual faculties is still slower. At a certain age, it already has strength and passions, without experience enough to regulate them. Too sensitive to present impulses, too negligent of the future, such a being must be kept under an authority more immediate than that of the laws.

Developmental psychology's view of childhood as dependent and long-lasting has had two contrasting effects : On the one hand, psychology has contributed enormously to what Fromm has called "the revolution of the child". Before the 19th century, the infant and the very young child were thought to be incapable of genuine thought, feeling, or suffering. Childhood was viewed as "an unfurnished antechamber to adulthood" [5]. Heredity or fate was generally held responsible for how a person turned out. Freud was the most influential of a number of 19th-century theorists and reformers who articulated a new view of the child. He argued that rather than being blank and insensitive organisms, the very young were passionate beings, with powerful emotions and complicated thought processes. The history of developmental psychology in the 20th century is an elaboration of this basic insight.

On the other hand, psychological research and theory has also played a role in promoting the rationale of children's incompetence and dependency. David Bakan finds that the elaboration of theories and research on the special psychology of adolescence has drawn attention to an important period in the lives of contemporary individuals, at the same time stressing the pathology of adolescence, thus deprecating the value and status of adolescents as persons :

By stressing, for example, the presumptive emotional instability and unformed nature of people of that age ... Hall and others tended to put a gloss of psychopathology on this age period. Since it has long been a principle in our society that persons regarded as psychologically pathological are to be relieved of rights, the effect of this literature has been to serve the general disability of persons under legal ages. In this way, the workers in the field of adolescence have tended to conspire, certainly unwittingly, with some of the forces depriving adolescents of their rights [6].

Traditionally, psychologists have preferred to describe young people in terms of their inadequacies rather than their competencies; thus, adolescents are emotionally unstable, and beset by identity crises; school-age children are "egocentric". The classical model of development, with its image of distinct stages, has contributed to this view.

Recent research has challenged these assumptions in a number of areas--cognitive development, social role-taking, moral reasoning. Young children no longer appear globally egocentric, and the school-aged child no longer appears morally unsophisticated. Cognitive capacities are not an all or nothing phenomena. For example, consider Kohlberg's work on moral development, which asks children to solve hypothetical dilemmas about interpersonal or moral issues. Kohlberg's best known story dilemma asks whether a man should steal an overpriced drug he cannot afford to cure his wife of cancer. Kohlberg finds no consistent moral thinking about this dilemma in children under ten, and the highest level of morality is not reached until the end of adolescence. In fact, the highest levels are reached by a surprisingly low proportion of adolescents and adults.

Kohlberg's inability to find coherent moral thinking in children under ten seems due to the fact that the dilemmas he uses are based on adult social concerns. When children are presented with issues arising out of their own social realities--what is a fair distribution of candy or pizza, how should a child respond to parental authority when it is inconsistent and arbitrary, the distinction between social conventions such as not addressing teachers by their first names and immoral acts such as stealing or killing--children are capable of remarkably sophisticated reasoning [7]. By the end of childhood (ages 8-10), children are able to take into account a multiplicity of claims for justice and choose the claims that seem most suited to specific situations. The adult-centered methods used in previous studies did not permit these abilities to emerge.

The presumed egocentricity of pre-schoolers also appear to be the result of using complex and unfamiliar tasks. By presenting problems in simple and familiar forms to children, psychologists have been pushing ever lower the ages at which cognitive capacities such as taking another person's point of view and moral reasoning can be found in young children. One writer recently compared such psychologists to gunslingers of the old West who know they must some day meet their match : "Each psychologist undertaking such a study must realize that some day another child psychologist will find a similar-appearing ability in children even younger than the original researcher had expected possible".

The researchers who have been lowering the age of cognitive capacities do not argue that there are no differences between the preschooler, the child, and the adolescent. Yet it is clear that children are much less globally inept than they have been portrayed in the traditional developmental literature.

Paradoxically, while one group of developmental psychologists have been pushing down the age of cognitive competence, other research has been revealing that the traditional view of adult cognitive abilities is off the mark. The final stage of cognitive development, according to Piaget, is the state of formal operations. It is the ability to reason logically, to solve abstract, hypothetical problems. There are now serious questions about the universality of formal operational thinking. Although the more mature forms of thought do not emerge until adolescence or later, they are by no means the typical modes of thought for most adults most of the time. Piaget himself recognizes that most adults may be capable of the most mature levels of thinking only in areas of their greatest experience or interest. Even well-educated adults have trouble dealing with formal logical problems such as the distinction between, "If A, than B", and "If and only if A, then B".

Although the studies cited have been concerned with making laboratory tasks simpler and more closely related to children's interests and experience, developmental psychology is still not a science which studies children growing up in actual life circumstances. Laboratory studies have produced enormously useful information, but their relevance to real life, hence their usefulness to the making of social policy decisions, is questionable. One leading psychologist, Urie Bronfenbrenner,[8] argues that developmental psychology "needs" social policy; increased attention to policy-related research would provide important answers to scientific questions about the interaction between development of children and their enduring environments.

Similar problems arise in trying to translate developmental findings into statements about children's rights. The newer research mentioned earlier, which found a lack of egocentricity in pre-schoolers, and sophisticated reason about social relations in school-aged children, would seem to support those who have argued the autonomy side of children's right--the idea of extending adult rights to children. In fact, the American Psychological Association has entered the legal arena in support of the concept of the "mature minor". The APA participated as amicus curiae briefs in suits involving institutionalization of children under the age of 18 by their parent, and in defense of minors'rights to abortions without parental consent.

The briefs argue that children 12 or older should be accorded the same due process protections as adults. In commenting on the brief, Stier [9] observes that the age of 12 is an increasingly preferred dividing line for according children majority status; "mature minor" rules are part of a liberalizing trend particularly evident in the area of medical treatment and health care; the choice of the age of 12 seems to reflect the work of Piaget and the notion of mature cognition capacities emerging at adolescence.

On the other hand, the more traditional view of children and adolescents as emotionally dependent and cognitively immature is also alive and well. While the newer research reveals children to be surprisingly sophisticated in many ways, it does not say that children or adolescents are the same as adults. Conclusions are drawn from the data in the same way as one decides whether the glass is half full or half empty--according to how one prefers to view the world.

Children, Values, and Politics

One of the major difficulties confronting discussions of children's rights is the assumption that children are beyond politics. In debates about policy issues pertaining to children there is often an unwarranted assumption that there are clear goals and standards for children's well-being and development. The attitude of all sides is that they are speaking in "the best interests of the child".

Those who would extend children's rights claim to speak in the best interests of children, while those who defend the status quo claim that current practices are already fulfilling that standard. Developmental psychologists often assume that their efforts are also in the best interersts of the child. Concealed in the phrase are the value assumptions taken for granted by the speaker; there is strong rhetoric on both or all sides of the issue.

Yet in discussing children, the family, and state we are dealing not only with philosophical preferences, fine points of the law, and the latest research findings from developmental psychology, but with gut-level, high-voltage, emotional reactions. There are no value-free ways of looking at these issues. For example, many advocates of children's rights view children as oppressed minorities comparable to blacks, American Indians, and women. They argue that just as a person's legal autonomy should not be restricted because of race or sex, it should not be restricted by age either. Critics of this position consider the analogy as absurd, an insult to women and racial minorities, and dangerous to family and social stability. Across such rhetorical barricades, reasoned discussion can be difficult indeed.

It is not only in making policy decisions for children in general that values must be confronted. Even the seemingly less politicized atmosphere of decisionmaking for the individual child involves value choices. What is in the best interest of an individual child is often indeterminate and speculative. Robert Mnookin [10] spells out some of the problems confronted by a judge in trying to decide what are the best interests of a child in a custody dispute. Assuming that it is possible to make accurate predictions about alternative outcomes which, in fact, it is not, what set of values should a judge use to make his decision about a child's best interests ? Should it be the child's present happiness, or happiness in adult life ? Should happiness at any age be the deciding value ? What about economic productivity, spiritual development, or warm relationships As Mnookin observes, deciding such questions involves ultimate assumptions about the purpose and value of life itself [11].

Ambivalent Objects : The Child, the Family and the State

The power of children to evoke strong and ambivalent emotional responses did not, of course, begin with the children's liberation movement. Throughout Western history, the child has symbolized both good and evil. The child has represented naked innocence, naked impulse, and both subordination to and rebellion against authority. Attitudes toward impulse are the key to attitudes towards childhood. Calvinist theory had as a prime tenet of child rearing the doctrine of "infant depravity"--the infant was doomed to sin and evil unless controlled by parents. The Catholic Counterreformation promoted the same dark view of childhood. Often the two attitudes have coexisted. Kessen observes that particularly in England and America there has been a "curious conflict between childhood as innocence and the grim portrait of an evil being who must be scourged to his salvation"[12]. Towards the close of the 18th century, however, the theme of childhood innocence was forcefully reasserted by Rousseau and the romantic school of writers, most notably Blake, Wordsworth, and Dickens. In contrast to the idea that the child was a nately depraved and needed vigilant adult guidance to develop properly, Rousseau argued that the child would develop naturally towards virtue with a minimum of adult training.

Freudian theory, in turn, overthrew the image of childhood innocence, and introduced a modern version of original sin. The Calvinist idea of infant depravity was reborn in the Freudian concept of the id as a seething cauldron of lustful and murderous impulses. Like the Calvinists, Freud emphasized the role of parents as tamers of the child's animal nature and agents of civilization.

But there are important contrasts as well between the concept of original sin and the image of the child in psychoanalysis. The Freudian message about the child also contained a plea for the recognition and protection of the special qualities of childhood and of the naturalness of development, largely echoing Rousseau. As Peter Coveney comments : "For all his destruction of the idea of childhood's innocence, Freud's ideas were in fact in fundamental sympathy with the original romantic assertion of childhood's importance, and its vulnerability to social victimization"[13].

The ideological implications of the various images of childhood are more complicated than they appear at first glance. For example, although Calvinist views could be and often were used to justify brutal child-rearing methods, such views signified an increase in the status of children in society as a whole and in the family--that concern for the child's soul symbolized increasing concern for the child as a person and a greater degree of emotional involvement between parents and children [14].

There is also another side to the Rousseauian celebration of childhood. Rousseau's assertions of the natural childishness of the child emphasized the distance between children and adults--the childishness of the child was the complement of the supremacy of the adult. Rousseau's work is full of pleas for parental authority over the child.

In general, a sensivity to the various stages of childhood and youth is not necessarily evidence of concern with the child's welfare. Rothman [15]. for example, has pointed out that there is a "darker side" of age-grading--age-grading may reflect one form of social control over children, "part of an effort to lock-step the child into rigid and predetermined modes of behaviour". Thus, a sensitivity to age differences may reflect an attempt on the part of those charged with the management of children to make their tasks easier--a rationalization of childhood in the interests of making the child's behaviour more predictable and manageable.

Within the family as well, a concern with child rearing may not be an index of pure concern with the child's welfare. "Enlightened" child rearing, like that advocated by Rousseau, may reflect not as much a decline in parental authority as it does a shift in tactics from coercion to manipulation. Sunley suggests that the emergence of interests in the child and problems of child rearing may have reflected a new emphasis on the child as the agent of parental ambitions, and as a

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representative of the parent's status in society [18].

Just as there are different images of children in our culture, so are there different images of families. The dominant view of the family is a sentimental, idealized one : the family is based on "natural affection". Currently, a nostalgic rhetoric is in vogue; many people feel the family is falling apart, and abandoning its time honored function of socializing children and providing a haven of peace and security for adults; if only we could return to the stable, harmonious family life of earlier times, many if not all of our modern ills would be cured.

A minority of writers have dissented from this "sentimental model" of the family, and a minority within this minority has actually gone to the extreme of attacking the family as an oppressive institution and the source rather than the potential cure of all our ills.

Both extreme views of the family overlook the reality that there is no such thing as The Family, only families, some of which fit the idealized image, some of which are oppressive, with most falling in between, or mixing oppressiveness and nurturance together. Historians of the family, as well as family therapists, recognize that power and conflict are as intrinsic to the family as "natural affection".

The third corner in the triangle of parents, child and state is an even more controversial concept. Is the state a check on individual selfishness, or an agency of class oppression ? Is it an instrument of the public will, or body of power-hungry bureaucrats enriching themselves at the public's expense ? In these days of American hostility to "big government", some of the advocates of children's liberation are calling for an increased role for the state in the lives of children and their parents.

The issue comes to a head over the problem of child abuse and neglect. Many child advocates have called for a greatly increased role for government in the protection of children. They have called for routine screening of parents to detect potential child abusers, national health visitors who can inspect homes and compel preventive medicine, and even the licensing of parents before they are to be permitted to have children. On the other hand, many of those who have seen existing attempts of the legal system to regulate family life feel that such efforts at child saving would lead to greater evils than they would prevent. Some feel that the state already has too much power to intervene in family life, and to remove children from the custody of their parents for insufficient reasons.

Children's Rights and Development in Social Context

Underlying the various issues mentioned above are some basic social and historical realities. Discussions on both children's rights and developmental psychology are often carried on as if development took place in a social vacuum.
Yet we cannot debate about the proper allocation of responsibility for child

rearing among the parents, child and state without taking into account the way the balance among these three is affected by the social and cultural contexts of family life. Nor can we talk about psychological development or the competence of children as if these were biological invariants. The needs, roles and capabilities of children are affected by the structure and functioning of the family, the economy, the quality of community life, the child care system, the age stratification system, as well as the prevailing political and religious ideologies.

Without going in any great detail into the history of childhood or the history of the family--two burgeoning areas of research at the moment--I would like to discuss several historical changes which have had great impact on children and families. These are : the increasing segregation and differentiation of different segments of life span, the transformation of children from economic assets to their parents to economic liabilities, the weakening of family ties to the surrounding community, and shifts in ideologies concerning the family and the role of children in it.

All of these changes are the familiar concomitants of modernization--familiar, that is, to historians and sociologists whose work consists of examining the social and historical contexts of human behavior. Few psychologists realize how dramatically the social contexts of child rearing have changed in the 20th century. Writing of developmental psychology in particular, Keniston [17] described the problem of "chronocentrism", the tendency to use the developmental patterns of Western middle-class children as the norm of human development in all times and places.

Over the past century or so there has been a decline in the social bonds that used to tie families to communities. While there is debate about the concept of the isolated nuclear family, there is little doubt that such ties have lessened in recent decades and that family privacy has increased [18]. Troubled families are likely to find themselves with fewer informal supports than those in the past, and the state, other formal organizations, and professional helpers have been called upon to fill the gap.

Despite the current nostalgia for some golden age of family and community life, we should not idealize the small towns and neighbourhoods of previous eras. Not only are they unlikely to return, but their passing is not an unmixed loss--they could be intrusive, intolerant, and hostile to individual and family autonomy. Nevertheless, families were less likely to find themselves without social support and in need of assistance from courts and state agencies.

An even more fundamental shift in family life is the change in children's economic roles. In historical and cross-cultural perspective, our own culture is decidedly deviant in the way it deals with the transaction from child to adult roles. As anthropologist William Stephens [19] points out, there are three aspects to this transition. The first deals with work and occupational roles; the second with marriage and parenthood; the third and last has to do with emancipation from parental authority. In all three ways, the transition to adulthood in our culture is unusual. With regard to work and marriage, our young people become adults comparatively late; with regard to parental authority our society emancipates young people abruptly, and early.

The idea of children doing serious work is so alien to contemporary notions of childhood that it is hard to realize how odd we are historically and cross-culturally. In nearly all societies known to ethnographers, and in early eras of our own, work begins very early. This is not to say that age differences are not recognized. Thus, children between the age of 3 and 6 will begin to work, after 6 their responsibilities will increase, and at some point between 9 and 15 the child will become, occupationally speaking, "a fully functioning adult" [20]. Although some of the work children do consists of chores not directly leading to adult work--such as errand-running and trash disposal--most children's work clearly takes the form of apprenticeship for adult work roles. In societies precariously close to the subsistence level, the contributions and responsibilities of children to survival are not taken lightly.

Our current conceptions of child labor were shaped by the terrible exploitation of children that occured in the mines and factories during the early era of industrialization that was ended by child labor and compulsory education laws. But in pre-industrial settings when work took place within the family, participation in the workaday world need not necessarily be oppressive. Bernice and John Whiting, for example, comparing the lives of children in African agricultural settlements with those in new African cities, do not find the latter necessarily better off. From the age of 3, rural children help with gardening and herding, and little girls often have full responsibility for the care of younger siblings. They observe :

There is no indication that this type of labor overtaxes the child. At that age between 3 and 8 when children are so eager to play the role of adults, they are permitted to do so and are made to feel that they are important contributors. It is true that their parents exert more pressure towards obedience and are more punitive when they fail to perform their tasks responsibly, but this is not surprising when one considers that 5- to 7-year olds are being entrusted with human lives and valuable stock [21]. At first glance, it would seem that modern parents have been the losers in the modernization game, and that children have been the winners. The traditional parent could look to a child as a current economic asset, a support in old age, and a lifelong subordinate. The modern parent enjoys few of these ancient rewards from parenthood.

Yet the value of children to their parents has not been lost; rather, children have been transformed from economic assets into "economically useless" but "emotionally priceless" beings. Love and mutual indentification have come to be the medium of exchange in family relations, rather than goods, services, and obedience. If the home in modern times has, as Christopher Lasch puts it, been lookes to as a "haven in a heartless world", it is children who have served as the heart of the home.

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Before relatively recent times, love was not considered an important element in parent-child relations [22]. Children who had been subjected to severe discipline did not necessarily assume their parents had been hostile or remiss in their duty. By contrast, 20th-century society believes that a lack of parental love can have disastrous consequences later on. These beliefs can act as self-fulfilling prophecies : parents believe if they fail to love their children enough they will harm them. Children and adolescents learn of scientific and popular theories relating lack of parental love to unhappiness and psychological illness; and adults interpret their emotional problems as delayed reactions to a lack of love during childhood, rather than, say, fate, witchcraft, or evil spirits.

Children are not only love objects, but sources of pride, hopes for the future, sources of meaning and connectedness in an impersonal society. They also give parents the opportunity to exercise a degree of power not possible anywhere else. As Blau and Duncan observe, while middle-class, achieving men have their status as adult men supported by their occupational roles, "the unsuccessful find a substitute in the authority they exercise in their role as fathers over a number of children" [23].

It is these emotional dynamics of modernized family life that make the idea of children's liberation within the family such a touchy issue. For a child to challenge the wisdom and good will of a parent is not only a challenge to parental authority--it strikes at the very raison d'etre of the family. What parent has a child with the idea of being hauled into court some years hence in a dispute over bedtime, haircuts, curfews, or allowances ? Quite apart from the practical and political problems of increasing the public surveillance of private life, the enforcement of children's rights within the family would throw the roles of parent and child even more out of balance than they already are.

Despite the child-centeredness of the modern family, growing up is more problematic in contemporary industrial societies than it was in the past. There is no need to idealize the past--children were less likely to be considered sensitive human beings, and often were treated in less humane ways. But some aspects of parents' and children's lives posed fewer difficulties than they do now. Early childhood and adolescence are the two most problematic stages of the child's growth.

When the home is no longer the center of economic life, child care becomes a problem. The homes of the pre-industrial past were not child-centered, but their economic functions assured that adults would be available to look after the children. Economists have pointed out that the most "efficient" way of caring for young children is in a setting in which other activities are being carried out, since children require full-time availability, but not full-time attention [24].

Adolescence is the other major era of life when psychological needs are often out of step with social realities. The reason was enunciated by Ruth Benedict four decades ago. She pointed out that modern industrialized cultures maintain sharp discontinuities between the behavior demanded of the child and that demanded of adults : children play while adults work; the child is supposed to be obedient, the adult dominant; the child is supposed to be sexless, while the adult is expected to be sexually active and competent. In few other cultures, Benedict [25] points out, do people have to learn one set of behaviors as children and then unlearn and reserve these patterns as they grow up.

Much of the familiar turmoil of adolescence can be explained in terms of the reversal of roles demanded of young people in transition between childhood and adulthood. While certain other cultures also demand radical changes of behavior in moving from one age category to another, there is much more organized social support and ritual to help bridge the gap. For modern adolescents, the passage from childhood embeddedness in the family to adult independence, intimacy, and identity must be negotiated by each individual.

Recent historical studies have also explored the notion of a uniform kind of transition between childhood and adulthood. Uniformity is another aspect of the age stratification system in modern societies. People of the same age are generally expected to be in roughly the same stages of various careers; schooling, work, marriage, parenthood. Before the modern era, however, there was less uniformity in life cycle transitions. Children might start school very early, or else not begin their educations until adulthood. Around 1840, for example, 10 % of Massachusetts children under 4 were enrolled as regular students [26]. Leaving school was not a significant turning point either; children and young people would move back and forth between school and work, according to family needs and the availability of jobs [27].

The shortage of labour that had existed throughout most of American history ensured that anyone willing to work could do so. During most of the 19th century, a large proportion of young people left school and went to work at 12 or 14. Many also left home at this age, either to live in other families as apprentices, or simply to be on their own.

Marks [28] points out that for the first three-quarters of the 19th century, the courts recognized a doctrine of emancipation : a boy as young as 13 or 14 would be freed of the obligation to turn over his wages to his parents and live at home, while the parents would be legally free from the responsibility of supporting the child. (The courts were not so willing to recognize the emancipation of girls).

By the end of the 19th century, however, there was no longer a need for children and other unskilled labour. Young people who had been mature enough to be workers in earlier times now were considered immature, useless, and even dangerous. The presence of large numbers of idle young people in the streets of American cities was perceived as a threat to the social order. The "crisis" of youth led to major social movements and new social and legal policies for dealing with children. Child labor laws, compulsory education, and the juvenile court and child guidance clinic were products of this ferment. The laws, with their precise age requirements, set a clear boundary for the end of adolescence. Adolescence was now marked off from childhood by puberty, and from adulthood by legal barriers to working, leaving school, and living apart from parents.

For middle-class youth, the economic changes at the end of the 19th century altered the conditions for success and created new demands on families. Formal education beyond puberty was now required to place children on the track to positions in the new bureaucratic middle class. In the past, when the middle class was composed of entrepreneurs, artisans, and self-employed professionals, the road to adult "success" was a meandering one. Detours into the world of casual labour, or an erratic and incomplete education, did not preclude economic attainment later in life. Indeed, an independent and autonomous youth could be a precondition for success in the business world of the 19th century.

By 1900, however, a youth's desire for independence and autonomy came to be seen as "prescriptions for failure"[29]. No longer a meandering road, the route to success came to be more and more a steep ladder. A missed step anywhere along the line might mean one would never reach the top. There was a new emphasis on achievement, obedience, purity and self-restraint. Parents who now had to sacrifice the earning of their teen-aged children expected this sacrifice to be repaid not in money, but in conformity to the demands of family, school and society. Developmental psychology emerged as an academic discipline during this period. Not only did it reflect the social changes taking place in the lives of children and their families, it influenced the direction of those changes. The ideas brought forth by G. Stanley Hall and other psychologists shaped the institutions and policies that governed the treatment of young people for much of the 20th century.

The key factor in the "invention of the adolescent"[30] at this time was the use of a biological framework to interpret the problems of youth. Young people between the ages of 10 and 25--particularly young men--had been a problematic age group in other eras. And puberty had been recognized as a time of life that could bring drastic changes. The novelty in what Hall and the others had to say was the idea of adolescence as a universal phenomenon, determined by a biological process of maturation. The social and scientific consequences of this biologizing were noted by Benedict at the end of her essay on discontinuities. She pointed out that when adolescent storm and stress are explained in physiological terms, we overlook the possibility of developing social institutions which could lessen the strains on adolescents and their families; instead, however, "we elaborate a set of dogmas which prove inapplicable under other social conditions"[31].

Implications

The road from these observations to social policy is complicated. To say that adolescence is largely the product of social, economic and legal arrangements, rather than the expression of some universal biological necessity, is not to say that it can be readily changed. It is a fallacy to think that if something is biological, it is immutable, but if it is social, it can be easily altered. Often, the reality is the other way around.

For example, although the incompetence and dependency of children may be largely a product of cultural belief and practice, rather than an inherent condition, this is not to say they are unreal. The existing social and economic context places limits on the exercise of children's competence and responsibility. Children do have to go further to achieve adult levels of competence in "advanced" technological societies than they do in small, subsistence-level ones.

Similarly, although the discontinuity between children and adults in sexual matters is also culturally based, this does not mean that current family structures could accommodate unrepressed child sexuality. Nor is it likely that the majority of families would be willing or psychologically able to provide or tolerate a genuinely egalitarian relationship with children as long as children are economic dependents and parents remain responsible for their children legally, morally, and, above all, emotionally.

On the other hand, in view of the profound changes that have occured in the social place of children and in theories about them, it would seem unreasonable to assume that our present conceptions of childhood will remain in force indefinitely. If the nature of childhood and of human development has changed in the past, they are capable of changing again. Although it is difficult to predict the next directions of social change, a new view of childhood may be visible on the horizon. And new stages of development may emerge from these changes.

In a variety of ways the norms of conventional age grading appear to be losing their previous decisive influence. Although the adult world is still sharply marked off from the world of the child, there is a certain blurring around the edges. Dress and amusements no longer distinguish children and adults as sharply as they once did. Current clothing styles are not only unisex, they are increasingly uniage. Where fairy tales once were shared by all groups, now television is.

The recent public and professional interest in adult "development" is another sign of lessened differentiation between adult and child roles. Ironically, while there is increasing public dissatisfaction with education for children and youth, more and more adults want and need to continue their learning over their life span. Some have suggested that the schools should be open to people of all ages and that children should be integrated into work activities. The distinction between economic and educational institutions would become blurred. Schools might become communities in which children would carry out responsible service activities, but also would include time for learning. The 1970 White House Conference on Children suggested something like a revival of the apprentice system : workplaces would be modified to include the young in productive work; they would divide their time between learning and actual work. The life cycle would no longer consist of an early period of full-time school and full-time work later, but rather a combination of the two activities over many years.

Adulthood in the old sense was attained when a person's growth and learning had been finished, his place in and relation to society set. The conception of childhood as a stage of life exists as a contrast to the idea of adulthood. In the future the institutional and psychological basis for conceiving childhood and adulthood as radically distinct stages of life may no longer exist.

Conclusion : Who Speaks for Children ?

Debates about children's development and children's rights are usually debates among adults. It is highly unusual for children's voices and experiences to emerge directy in these discussions. Children have been studied through adultcentered perspectives such as "socialization" and "development"--as "adults-in-the-making" rather than their current experiences and daily lives.

Children's experiences of their social worlds are a vast terra incognita that only a few brave researchers have dared to explore. Robert Coles' series of books on children around the world--Children in Crisis--is the leading example of work which listens directly to the voices of children. Coles' work shows that children are shrewd social observers and may be politically sophisticated even when very young. As sociologist Barry Thorne has argued, we have much to gain by trying to understand children on their own terms, rather than through adult concepts and interests. Closer attention to children's own perceptions and experience is obviously necessary if we are to understand children as persons in their own right.

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THE CHILDREN'S DEFENCE FUND : AIMS, PROCEDURES AND RESULTS

James D. Weill

The Children's Defense Fund is a 19 year old organization which is headquartered in Washington, D.C., with branch offices in four states of the United States. It is supported entirely by private contribution. We accept no government money.

The mission of the Children's Defense Fund is to improve the status of poor, minority and handicapped children in the United States -- trying to eradicate the child poverty an the irrational discrimination that blight the lives of far too many American children.

Our emphasis on poor children means that we focus most of our work on areas that most children's rights advocates have traditionally ignored, and in that sense we do not identify ourselves as a "children's rights" organization. Rather, we are working to make sure that all American children get the basic food, shelter, health care, education, child care and parenting they need to grow up healthy and with full development of their potential.

I want to start by describing the status of low-income children in the U.S. in 1987. In some respects this is difficult to do for an audience mainly of Western Europeans, because our politics and public programs are so radically different from yours. For example, by and large we have no laws requiring employers to allow maternity of paternity leave (wheather paid or unpaid) for new parents. We have no system of universal health insurance, no guaranteed minimum income floor for families, and generally little in the way of the broad-based minimum social supports for needy families and children that are so common in Western Europe.

As a result of the failure to maintain some minimum standards, many American children are suffering badly. More than one out of five American children lives in poverty, as defined by the U.S. government. The poverty level is the annual income amount below which it is assumed that a family cannot meet its subsistence needs. The amount increases as family size increases and also is adjusted upward each year to account for inflation. It is not adjusted upward, however, to account for real growth in the average family's income, so the extent that our economy has grown and median income has grown in the last 25 years, the static definition of poverty increasingly has lagged behind median income.

The official annual poverty line in 1987 for a family of four is $ 11,200. This is only 32 % of the median income for families. It is not an adequate amount : a family with income at or near that amount is in great difficulty. But it is widely accepted as a meaningful statistical guage.

While about 11 % of Americans age 18 or older are poor, a shocking 20 % of Americans children live in poverty. This figure is nearly 1 1/2 times the percentage of children who lived in poverty in the late 1960's. The country has thus slipped backward substantially over the last two decades.

Young children -- those under age 6 -- are especially likely to be poor. Nearly one-fourth of them live in families with incomes below the official poverty line. And particularly heartbreaking is the fact that about 40 % of black children and Hispanic children in the U.S. live in poverty.

There are several reasons why child poverty rates have skyrocketed.

First, wages for the lowest paid workers are too low. The shift in the U.S. economy from manufacturing to service jobs has depressed wages. Also, the national government has an hourly minimum wage that applies to most (although not all) jobs, but this hourly dollar figure has not been increased since January 1981, even though inflation has caused a 30 % increase in the cost of living since then. Minimum wage workers, and particularly young workers in their late teens and twenties (who are most likely to be paid the minimum wage) can not earn their families' way out of poverty. A parent working full time year round at the minimum wage cannot get a family of three up to the poverty line. Two parents -- one working full-time and one working half-time at the minimum wage -- do not make enough to get a family of four out of poverty.

Unemployment and underemployment are another cause of U.S. child poverty. Even after more than four years of a modest "economic recovery", about 14 million Americans are either officially counted as unemployed, or can only find part-time work even though they want full-time jobs, or have simply stopped looking for work because job prospects are too bleak.

A third cause of high child poverty is the growing proportion of children living in single-parent households, typically with their mother. Over the last two decades American divorce rates have gone up, as has the proportion of births to unmarried women. One out of every five American children now lives in a female-headed household. Such a child is four times as likely to be poor as a child in another family, because women's wages are far below men's, because one income is often inadequate, and because the absence of decent day care and help in paying for it keeps many single parents out of the work force.

But often the reason why parents divorce, or don't marry in the first place, is economic instability. A radical drop in the wages of young men over the last decade and a half in the U.S., making them less atractive marriage partners, has contributed to a falling marriage rate and an increase in the out-of-wedlock birth rate.

Finally, changes in government policy under President Reagan during the last seven years have contributed to higher child poverty rates and to exacerbating the effects of poverty. Income tax cuts that have disproportionately helped the rich, and reductions in government domestic spending programs that have disproportionately hurt the poor have together shifted tens of billions of dollars of annual income from poor and middle class families to the wealthy.

The effects of this shift have been exacerbated by old problems and new trends in the U.S. health care system. That system is both a contributor to poverty and an indicator of poverty's results. As you know, the United States is virtually unique among Western industrialized countries in having no universally accessible health service or national health insurance. For Americans over 65 (the typical retirement age), we do have some broad national health insurance. But for all other Americans, health insurance is most frequently provided as an ancillary benefit of employment -- traditionally at no cost or at modest cost to the employee.

The system, which was never adequate to begin with, has unravelled further in the last decade. It excludes millions of families with no currently employed member, or those families -- usually at the lower end of the wage scale -- with parents who have jobs with companies that do not offer health insurance coverage as a benefit. Many employers have seen elimination of some or all health insurance as a way to lower their labour costs in recent years. In other cases the company may give health insurance to the employee but not to his or her spouse and children. In all these cases where there is no health coverage through the employer, it is essentially impossible for a poor or moderate income family to buy insurance on its own. Such insurance can cost upwards of $ 3,500 per year.

The federal and state governments do provide public health insurance to some, but by no means all, poor people. But the erosion of the employer-provided health insurance system has been so rapid, and the public program -- called "Medicaid" --is so inadequate, that tens of millions of Americans have no health coverage. Between 1979 and 1984 the number of completely uninsured Americans grew from 26.2 million to 35 million. These figures undoubtedly have worsened in the past three years, and are likely to continue to grow.

Children are particularly likely to be uninsured. In 1984 children made up one-fourth of all Americans younger than sixty five, but one-third of America's 35 million uninsured persons.

Uninsured Americans lack adequate access to health care, and that in turn is reflected in health outcome data for children. Nearly nine million American children have no known regular source of health care. Poverty and inadequate health care mean that America's children suffer far more pain, illness, disability and death than they should. Infant mortality is an ongoing scourge. Improvement in the United States infant mortality rate has ground to a virtual halt in the mid-1980's. Even before that, improvement was too slow : among twenty industrialized nations with comparable vital statistics reporting systems, the U.S. had a sixth place ranking on infant mortality between 1950 and 1955, but fell to a tie for last place in the first half of this decade.

Let me mention three other phenomena that have impact on American children and present a contrast with the treatment of children in many of your countries.

First, we have no national law giving employees a right to take maternity leave or paternity leave -- of any length -- with or without pay. New parents typically face the dilemma, unless they have a particularly compassionate employer, of staying home with the infant and possibly losing their jobs, or returning to work and struggling to find scarce and expensive day care for their newborn infant.

Second, the U.S. child care system has lagged far behind the need. In 1990, for example, 58 % of all American preschool-age children will have mothers in the work force, double the proportion in 1970. But federal government efforts to help families afford day care have not grown, and its efforts for poor children have shrunk. The absence of reliable and affordable child care is contributing to absenteeism and lack of productivity among American workers, and is often endangering our children's health and development.

The third phenomenon is the U.S. adolescent pregnancy rate, which is one of the highest among Western industrialized countries, even though American teenagers are not more likely to be sexually active. The U.S. adolescent pregnancy rate is twice that of France, England and Canada, and seven times that of the Netherlands. The likely causes of this are not only the limited access many teens in the U.S. have to sex education, open discussion of sexuality, and contraception, if they are sexually active, but also the lack of hope for the future that too many U.S. teens have. One study shows that countries with high teenage pregnancy rates also are those with very inequitable distributions of income. Preventing premature pregnancy means giving teenagers compelling reasons to avoid pregnancy by providing them the opportunity, education and skills they need to build decent futures.

I have reviewed some of the issues that are of greatest importance to the Children's Defense Fund. There are others : obviously, a decent education for all children is crucial, especially for the poor, minority and disabled children who have often been shortchanced by schools in the past. We believe the U.S. also needs a system to help those youths who are not going on to university to make the transition more easily from secondary school into the work force. Children who have committed delinquent acts should not be imprisoned with adults. Children who have committed no crime should not be imprisoned at all. Children in need of mental health services must get them. Children should not be removed from their parents'homes because of neglect when that neglect is really a result of family poverty and can be cured by a modest infusion of public assistance. When children have been removed from the parental home, they need decent substitute care and their family needs services aimed at eventual family reunification. Children born out of wedlock need equality with marital children -- equal rights to child support and to government benefits.

Obviously, the list is long, and I could go on. But I want to spend the remainder of my time discussing how CDF goes about trying to address these needs, and then reviewing very briefly the status of child advocacy networks in the U.S.

CDF is not primarily a service organization which represents individual children one-by-one. Rather, most of our work is aimed at systematic and institutional change : helping thousands or millions of children by getting a major court order entered or a new law passed or by changing a bureaucracy's behaviour or altering public attitudes.

Traditionally in the U.S., advocates seeking such institutional change have turned to the U.S. federal court system to enforce rights under the U.S. Constitution or national statutes. But few of the rights that children need, have been embodied in the U.S. Constitution, as interpreted by our Supreme Court. Indeed, in some respects that Court, particularly in the last fifteen years while dominated by conservative appointees, has been quite hostile to Constitutional claims asserted by children. It has rejected a wide variety of claims under the Constitution to decent public assistance benefits and to minimally decent education. It has upheld the detention in jail before trial of certain accused juvenile offenders, despite the general presumption of innocence that entitles Americans to be released on bail before trial. It has also upheld the commitment of children to mental hospitals without adequate procedural protections, and allowed corporal punishment of students. Currently the Court is in the process of deciding whether it is legal to inflict the death penalty for crimes committed by juveniles -- a practice condemned by many countries and international laws.

One of the few areas in which the Supreme Court has used the Constitution favorably to children in the last fifteen years is the protection of children born out of wedlock. The Court has said fairly consistently that state and federal laws and practices that benefit children born in marriage and disfavour children born outside of marriage violate the "equal protection of the laws" guarantee of the U.S. Constitution. CDF has been involved in several of these cases. The Court has said that punishing children born out of wedlock for the actions of their parents is "illogical and unjust". Imposing disabilities on the child is contrary to the basic concept of our system that legal burdens should bear some relationship to individual responsibility or wrongdoing". But when it comes to the status of family poverty, or other conditions that deprive a child of material or emotional or developmental sustenance, the Court is unwilling to pursue this logic or to act on the basis of the innocence of the child's status. The Court's failure here reflects a tendency in American society to give greater importance to punishing or depriving adults (in theory as an incentive for them to work even harder in the private marketplace), than to meeting the needs of their children through public programs.

This background of widespread child poverty and deprivation, combined with limited Constitutional protection of children, helps to explain the directions in which the Children's Defense Fund has evolved and the methods CDF is now using out of a belief that they will best allow us to build and enforce the minimum protections that American children need.

In its very early days, CDF was dominated by attorneys. In this respect it reflected the early development of the civil rights movement in the United States -- a movement that initially relied very heavily on lawsuits presented by talented lawyers trying to establish rights under the U.S. Constitution. Indeed, Marian Wright Edelman, the visionary President of the Children's Defense Fund, began her career as a civil rights lawyer in the state of Mississippi before founding CDF in 1968.

In those early days of CDF, attorneys and researchers would try to identify the scope of a problem and attempt to resolve it through lawsuits. The paradigm early CDF effort was a book, heavily loaden with statistics, that dissected a problem --such as children being excluded from public schools because they were handicapped, or could not afford incidental fees for books or transportation that were being charged by the schools, or were suspended as punishment for disciplinary infractions. The research would be followed by efforts to redress the problem through lawsuits. While these efforts met with considerable success in some respects, there are severe limitations under American law, as I indicated earlier, to trying to use the courts and constitutional claims to vindicate rights. It soon became clear that more was needed -- that efforts were necessary to draft federal and state statutes that would protect children; that pressure would be necessary to get such laws enacted; and that further efforts to force agencies to obey the letter and the spirit of those statutes would be needed.

As a result of that recognition, CDF's staff and techniques today span a very wide range of skills and forms of advocacy. CDF employs : researchers, community organizers, writers and editors, publications marketing specialists, staff to do liaison with children's advocates and state and local officials around the U.S., lobbyists, which is American slang for people who specialize in presenting our position to Congress and trying to get Congress to enact the laws which we believe protect children; lawyers; and specialists in the areas that are our highest priorities : education, child care, foster care, mental health, adolescent pregnancy prevention, income maintenance (U.S. jargon for cash welfare and support programs), homelessness, youth employment, and health. There are over sixty professional staff members.

In a new type of effort for CDF, we have hired media specialists and begun a long-term media campaign directed at both parents and children, trying to discourage adolescent pregnancy. In that campaign we are using television and radio, subway and bus ads, and posters for schools, community centers, or wherever teens congregate. We have paid for some of the television and radio time and public transportation space ourselves, but the vast majority of it has been donated as a public service. We also have created a network of volunteers from around the country -- called Child Watch projects -- which investigates and publicizes what is happening to children in their communities. Currently this network is working on the adolescent pregnancy prevention issue in several dozen cities and counties, with technical assistance from CDF organizers. In addition, CDF has begun working with various religious denominations to try to involve thousands of American churches and synagogues in demanding better things for America's children.

CDF still typically begins work in an area by undertaking a very extensive investigation of the scope of the problem and its actual effect on children. We often will publish a study drawing on data collected by governments and private sources, sometimes supplemented by our own door-to-door survey in selected neighbourhoods, and typically using anecdotes about actual harms suffered by specific children. We will put all this information in an explanatory framework and then make recommendations for changes in public policy. But typically now, we do not start out by trying to make that change in public policy through the courts. Rather, in the mid and late 1970's and throughout the 1980's we have frequently called on legislatures -- the national Congress or the legislatures of the states or both -- to enact such protections into law through positive legislation.

For example, after one of our early studies identified the exclusion of physically and mentally handicapped children as an important contributing factor to the large number of American children who were out of school, CDF and others prevailed on Congress to pass a national law governing certain aspects of education of handicapped children. Under that law states receive significant funds from the national government to help pay for education of handicapped children if they agree to provide a free and appropriate education to such children.

Other work by CDF and its allies has helped to create additional national rights for children in the past decade. Among them :

* A law passed in 1979 gives foster children the right to decent care while placed outside their parent's home, and gives them and their families a right to services that can reasonably be expected to reunify the family.

* A 1984 law gives all American children a greater right than they ever had before to obtain support payments from the parent who is not in the home. While some absent parents can not really afford any significant child support payments, many can but previously were left free of the obligation

because of states or localities which were hostile or indifferent to the needs of children and single mothers.

* The 1984 statute also was a watershed in its clear national articultation of a right for children born out of wedlock to bring paternity actions and seek child support at least through the time of their 18th birthday.

CDF is currently actively engaged in trying to get other basic protections for children enacted into federal statutes. We have been trying for more than a decade to extend the public health insurance program for the indigent to all children and pregnant women whose family incomes are below the national poverty line. We have made some progress, with important subgroups of such women and children added to the program's coverage in the last five years by the action of Congress, even though President Reagan's Administration has opposed it. We hope to win this fight fully in the next couple of years. We are also embarking on a new effort to get the national government to make a significant financial commitment to help low and moderate income families pay for child care expenses while they work or are in school or job training.

In making these attempts to get better national supports for families and children, we do not merely give research findings to Congress and ask the legislators directly to take such actions. We try to educate the broader public and often urge people from around the U.S. -- parents, child advocates, and providers of services to children -- to contact their representatives in Congress and ask them to support the legislation.

In these and other ways we are trying to assure that children get the basic supports they need through some minimum national standards.

But this effort is not all. In light of the nature of the federal-state division of power in the U.S., and because Americans have been going though a period of substantial skepticism about the duty or ability of our national government to meet some of the needs I have discussed, state and local governments play a crucial role in meeting the needs of children and defining the respective rights and obligations of parents, children and the government. We therefore have staff members in our Washington, D.C. office who specialize in working with state and local governments (and with child advocates in various states and localities) to produce similar results to those we seek at the federal level : good programs of child care assistance, good schools, decent public health insurance and public health clinics, effective programs to reduce adolescent pregnancy, and generally the panoply of basic supports that we probably all would agree that all children need. We also have CDF offices in four states -- Ohio, Mississippi, Texas and Minnesota -- with small staffs working toward the same ends.

Getting statutes passed -- whether at the state level or the federal level -- is also not adequate. Too often the people in charge of public programs do not act to make sure that such laws are carried out. They may be hostile to government programs in general or programs for poor people in particular. They may be indifferent or incompetent or simply overwhelmed by demand for services and inadequate resources to meet that demand.

Regardless of the cause for not enforcing children's rights, such actions or inactions are just as damaging as if the law to protect children had not passed in the first place. So we try to act to make sure that the laws are carried out. We try to affect federal and state governmental budget processes so agencies have enough money in reality to carry out the programs that laws create in theory. We seek more funds for existing programs of education for low-income children, preschool, child care, health care, foster care or other services. Often we point out to the legislature and the executive branch that in the long run more investment in such programs will save the American people money -- that each $1 invested this year in immunizations or other preventive health care or comprehensive preschool programs or prenatal health care and nutrition will actually save $3 or $5 or $7 over a period of years because children will be healthier, go to hospitals less, require less institutionalization, progress through school faster, be more employable and generally live fuller and richer lives that contribute more back to the society.

We also participate in the process surrounding the issuance of rules governing the programs -- a process often delegated to the public agency when the legislature passes a law with vague provisions. We write public reports on officials' failure to abide by the statutes or rules. We sometimes go to newspapers or TV to publicize such failures. And we file court actions in selected cases. For example, federal law guarantees minimally adequate care to poor children receiving Medicaid public health insurance benefits, but we had to sue on behalf of tens of thousands of Texas children when the state was only allowing them one visit to the dentist every three years.

Federal law gives certain rights to foster children, but we had to sue the city of Baltimore, Maryland to enforce the law : the city was taking children out of their parental homes due to abuse or neglect, and then placing them in foster families that were often not trained, regulated or supervised, so that too many of these vulnerable children were being abused or neglected again -- this time by their foster parents.

Typically the lawsuits we file are "class-actions" -- using a device in U.S. court procedure that allows one or more injured parties to bring a claim not only on behalf of themselves but on behalf of all others with the same grievance. In this way we can represent hundreds or thousands of children in one lawsuit.

However, even with this device, obviously we do not have the resources to bring one one-thousandth of the lawsuits that need to be filed for children or monitor one one-thousandth of the public agencies. So we try to give less direct help in various ways. We publish materials for parents on how they can protect their children's rights. We also try to assist the many loose networks of lawyers and other advocates for children. We do this by writing booklets and manuals on children's rights under various laws, and by responding to thousands of letters and phone calls from around the country seeking advice from the experts on our staff.

This brings me to the status of independent advocacy for children in the institutions and courtrooms where they daily face denials of services, or judicial decisions or other actions that may adversely affect their lives, health and well-being. Neither the United States nor individual states have a single system or integrated set of systems for asserting the rights of children. There is no widespread network of advocacy centers or legal centers to which children know to turn when they are in trouble. There is no widespread "ombudsman" or comparable structure.

The advocacy that does exist is fragmented and meets only certain needs of children. There are only a few matters in which all children have a right to a lawyer or other representative, including appointed counsel paid by the government if the child's family is indigent. In 1967 the U.S. Supreme Court rules that all children accused of delinquent acts that may lead to commitment to an institution have a right to a lawyer to represent them in the court hearing. It is, however, left to each state or locality to determine how to carry out this decision. Some localities -- especially big cities -- hire full-time lawyers (typically called "public defenders") to present children in delinquency cases, although frequently these lawyers have caseloads so large that adequate representation in every case is impossible. In other places it is left to very informal arrangements, often involving lawyers with no experience in juvenile matters, to represent children.

In other types of cases, there is no general national right for children to a qualified representative, whether a lawyer or a non-attorney lay representative. This is true of : custody determinations in divorce cases; decisions to place a child in a mental hospital; adoptions; school expulsion or suspension hearings; and a multitude of other judicial or bureaucratic decisions that have dramatic effects on children's lives. In each of these instances, whether a child has a right to be represented, depends solely on state law or local rules or customs.

This is true as well of abuse and neglect cases -- the initial determination to remove a child from the parental home; the decision as to what kind of substitute care the child needs; and any ultimate decision that may be made to permanently terminate the parent-child relationship. In this area, however, the federal government has given the states an incentive to provide representation. Under the 1974 Child Abuse Prevention and Treatment Act, it offers state-money for child abuse and neglect services conditioned on the states adopting a number of practices, including the provision of an attorney or a guardian ad litem (a guardian for the purpose of the particular case). Almost all states take the federal money and provide representation in these cases.

In the many contexts in which children are unrepresented, of course, they typically (albeit not always) can not adequately represent themselves. They effectively are left without a voice in these crucial decisions.

There are in virtually every community of the United States organizations of lawyers who receive federal government funds from an entity called the Legal Services Corporation to provide legal services to poor people in noncriminal cases. Like the public defenders in delinquency cases, many of these legal aid lawyers are overwhelmed by unmanageably large caseloads. But this is an important network of advocates who are asserting the rights of poor people, and many of these lawyers focus on representing poor families in their claims to the basic means of survival -- food, shelter, health care and other necessities.

Other groups are also doing important work for children. Three private associations of lawyers -- the American Bar Association, the National Legal Aid and Defender Association, and the National Association of Counsel for children -- have important divisions or projects dedicated to helping children and to increasing the quality of representation children receive from lawyers in court.
In many states and cities there are child advocacy organizations -- often just focused on one or two areas of children's needs, but sometimes covering a wide range of issues. They are far too numerous to mention or even to describe here. Some are private and others are government agencies. Some have paid staff and others only use volunteers. Some are large and many are very small.

We try to work with many of these groups, giving and getting information, sharing strategies for advocacy, working together on lawsuits. Universally, these groups share a commitment to improving the lives of America's children. And that gives great hope to those of us working at CDF. There are stirrings all around the U.S. that bode well for our children. There is both a resurgence of compassion and a recognition that a wealthy country which sees millions of its children ill-fed, unsheltered, in poor health, undereducated and ill-trained can not claim to be either a moral nation or a "great" nation if it allows that condition to continue. CDF believes that the U.S. will not allow that to continue, and we plan to keep pushing the country along in the right direction.

THE NORWEGIAN COMMISSIONER ("OMBUDSMAN") FOR CHILDREN : PRACTICAL EXPERIENCES AND FUTURE GOALS

Malfrid Grude Flekkøy

The mere fact that we now discuss and work for the rights of children in ways that, despite historical roots, are new, demonstrates that we see children as a group, - or individually - in a new perspective. This recent view is not yet universal, as demonstrated by the slavery, sexual abuse, and wars where children in our own age still are the usurped.

Historically, the manifest views regarding children have taken a long, often painful road from the child as chattel to child as a cherished person, in his own right or as future provider of security for the parents in their old age. The role of parents has also changed, from owner to nurturer and protector. Even now the roles may be changing again, now that the child increasingly becomes an object for need-fulfillment for the parents. Legally, national legislation as well as international conventions and declarations reflect these changes and may be instrument to develop and encourage such changes. In Norway, recognition of the now obvious truth that society cannot react to juvenile law-breaking with the same strictness as towards adults is first found in the Penal Code of the early 13 century. In 1621 Norwegian law obliged parents to provide useful occupation for their children. Public guardians could take over responsibility for youngsters found unoccupied or drifting, if the parents did not remedy the situation within one month. Such a statute indicated for the first time in Norwegian history that concern for children might lead to a public reaction, a public responsibility superior to parental authority, - 350 years ago. At about the same time the need to train and educate juvenile delinquents led to the establishment of "Work-houses for the Young" where the youngsters received vocational training - as well as punishment. Against this historical background, it blows my mind to know that Norway imprisons 14-year-old, and has higher number of teen-agers in prison than any other Scandinavian country.
In our time, public as well as private attitudes and opinions about children, how they should be brought up and treated, have developed in directions based on increasing knowledge about children's needs, developmental stages and the impact of relationships to adults and to societal influences. The first step was the recognition that children are not miniature adults. They cannot and should not be treated as adults, nor with the single goal of bringing them up as quickly as possible to adult standards. The recognition of changing needs, but also the unique value of children as individuals, of childhood as important in its own right, led to a deminishing use of punishment, coercion and force.

Educational practices, measures aimed at teaching, encouraging growth, and giving individual help and treatment have gained importance. Legislation as well as manuals for parents and other adults concerned with children reflect these changes. Norwegian legislation reflects the realization that development is gradual, responsibility must be given at different stages in the progress from dependant baby to autonomous adult, in a current Norwegian list of 25-30 different age-limits. The right to attend a cinema accompanied by an adult at the age of 5 is the first, the age at which child welfare relinguishes all responsibility (at 21) the last in long series. More humane attitudes towards children have no doubt led to improvement of conditions for children in many families and institutions.

In spite of historical and professional, as well as geographical or regional differences, children have universal similarities. The individual child has needs, some fundamental to health and life throughout his developmental span, - some more important at particular stages. Children as a group also have some characteristics, based on the fact that they, compared to the rest of the population are a minority group. In Norway, children now constitute 1/4 of the population. In the near future, however, the adults will out-number them 1:6.

The characteristics of children as a minority group.

The characteristics of this minority group are of increasing importance in their implications for the children's conditions.

1. Children have no influence on the choice of persons or compositions of bodies that are responsible for decisions concerning or influencing conditions under which children grow up.
   Since children cannot vote, they have no way of ensuring that the "right" political party or a particular candidat or special issue in on the slate or elected to serve on municipal, county, state or national governing bodies.

2. In contrast to children, adults have other means as well as the vote of swaying public opinion. Radio and television, newspapers and magazines are channels through which adults can make their views known and provoke public debate. If they do not want to do this individually, organizations serve as pressure-groups or lobby-ists on the behalf of their members. Children very rarely have any chance of using these possibilities.

These characteristics were the main reason for establishing the Ombudsman for children in Norway, the conclusion being that children needed an independant spokesman, a national defender and a public conscience-arouser on their behalf. Historically, the International Year of Women had led to the establishment of an Ombuds-Office for the Equal Status of Men and Women, so that eventhough the idea of an Ombudsman for Children had been published in 1968, the International Year of the Child in 1979 naturally led to a renewed interest in the Ombudsman for Children concept. In creating the Office, Parliament gave official recognition to the necessity and legitimacy of child advocacy. The office was esta-

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blished in 1981, the Act stating the purpose of the Office as follows :

$1 (Purpose)
The purpose of this Act is to contribute to promoting the interests of children in society.
$2 (Commissioner for Children)
The King shall appoint a Commissioner for Children for a period of four years. The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.
$3 (Duties of the Commissioner)
The duties of the Commissioner are to promote the interests of children vis a vis public and private authorities and to follow up the development of conditions under which children grow up.

In particular the Commissioner shall :

a. on own initiative or as a hearing instance protect the interests of children in connection with planning and studyreports in all fields,
b. ensure that legislation relating to the protection of children's interests is observed,
c. propose measures which can strenghten children's safety under the law,
d. put forward proposals for measures which can solve or prevent conflicts between children and society,
e. ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The Commissioner may act on own initiative or at the request of other people. The Commissioner for Children himself decides whether an application offers sufficient grounds for action.

$4 (Access to institutions and duty to provide information etc.)
The Commissioner shall have free access to all public and private institutions for children.
Government authorities and public and private institutions for children shall, notwithstanding the pledge of secrecy, give the Commissioner the information needed to carry out the duties of the Commissioner pursuant to this Act. Information which is needed for the accomplishment of the Commissioner's tasks pursuant to $3, second paragraph, litra b, may also, notwithstanding the pledge of secrecy, be demanded from others. When information can be demanded pursuant to this item, it may also be required that records and documents be produced. The rules laid down is subsection 1, $ 204 and $$ 205-209 of the Civil Disputes Act are correspondingly applicable to the Commissioner's right to demand information. Disputes as to the application of these rules may be brought before the District and City Courts, which decide the question by a court ruling.

$5 (Statements from the Commissioner).

The Commissioner has the right to make statements concerning conditions included in his working sphere. The Commissioner himself decides to whom these statements shall be directed.

$6 (Instructions for the Commissioner and the Panel).
The King draws up general instructions for the organization and procedures of the Commissioner and the Panel. Beyond this, the Commissioner and the Panel carry out their functions independently.

$7 (Entry into force, etc.).
This Act is applicable to Svalbard.
The Act shall enter into force from the date prescribed by the King.

The Act went into force Sept. 1, 1981. The first Commissioner was appointed, chosen amongst 19 applicants, in August 1981 and the same person was re-appointed in July 1985. Her second - and last - term in Office expires in 1989.

After six years, thera are certain points I, as the first Commissioner, should like to point out, as particularly important to the efficiency and functions of the Office :

1. The establishment of the Office, by Parliament, based in the Act, means that the Ombudsman has official status and is permanent until Parliament revokes the Act, regardless of changing political majorities.
In fact, 2 weeks after I took Office, the political majority of Parliament and therefore the Cabinet changed, bringing into power the block of parties that had voted against the Act. In the following years, the Cabinet has changed again. The political situation has not, however, affected the existence of the Office.

2. The independance of the Office in relation to all other institutions has several implications :

a. The Ombudsman has the right and the obligation to critisize any administrative level, any group, organization or person disregarding the interests of children, regardless of political or other considerations.
This means that we can raise issues which may be difficult or impossible for others, e.g. employees of the municipal or governmental establishment, who are often bound to loyality in relation to the political leadership.

b. The Office is free to handle any case in any way considered efficient. Instead of starting an issue at a low administrative level, hoping it will work its way up through the numerous channels, we can alert (and thus inform) a Cabinet member, Parliament members or top-level officials, letting the issue sift down to the uppermost possible level for further consideration. Also, statements are sent to the local press following the official letter to a local government, informing the public on our views and creating difficulties for any

mayor or politician unwilling - and unobliged - to inform the local political bodies on our views. Statements are also, contrary to common practice, widely distributed to local government, colleges, organizations, - any group or person considered of interest to the issue at state.
This freedom, combined with the official status we have, also gives the Office the opportunity to get together officials from any level, members from any organizations, and individuals, regardless of status, to discuss a topic of mutual interest, at times creating contact and cooperation across sectors never established yet.

3. The competence the Office has to

a. relieve others, when necessary for getting information needed, of their professional oath of confidentiality, combined with

b. our extended right to protect our sources.
The combination means that we have a guarantee of getting the information we need and that individuals safely, without fear of e.g. press, can turn to our office.

4. The prohibition in our instructions of handling individual cases of conflict within the family. If we had been allowed to handle these conflicts, we would not only become the Superior Parent, with the impossible right to overrule other parents, but also an appeal-court for any institution dealing with family problems. However, I must stress that we do handle the principle issues involved, e.g. regulations on procedures in divorce, the child's right to see both parents, have this own spokesperson in court, counselling before separation etc.
In other types of conflict, e.g. child abuse, we intervene by establishing connections between the child and whatever local service there may be to help the child.

5. Finally, and perhaps most important, the Office has the interests of the child, and no other interest, at heart. This means that we are not suspected of serving other purposes. It also means that we have no obligation to balance the interests of children against the interests of other groups, e.g. the elderly. Nor do we have to balance budgets on any level. Giving children's needs priority within e.g. local government must be the responsibility of the local politicians. We give them reasons to do so, but do not have the power or right to make decisions on their behalf. Our instrument is information and persuasion, - and that, in my opinion is sufficient, - if it works.

The Office receives approximately 2000 requests, inquiries, and complaints per year. A number of them may concern the same problem, so, including cases initiated by the Ombudsman, the number of cases totals approx. 4500 after 6 years, 10 % of which were raised by children. 6 main problems areas have been defined :

1. Children in institutions, child welfare, child abuse, 160-175 cases per year.

2. Child care and public leisure facilities, approx. 60 cases per year.

3. School problems, approx. 130 cases per year.

4. Cultural and consumer questions, mainly the impact of mass-media and accident-related problems, approx. 90 cases per year.

5. Family circumstances, including problems following divorce, conflicts with neighbours, family economy, housing, labour approx. 250 cases per year.

6. Physical conditions, urban and rural planning, approx. 110 cases per year.

The total number of cases per year has increased steadily, from 760 in 1982 to 860 in 1987. The budget is U.S. $ 300.000,- annually, and the staff consists of 4 people, including the Commissioner and the secretarial personnel, unchanged during these years.

As the work of the Office has developed, the balance of time spent on individual cases and issues of principle interest has changed. Individual cases vary enormously as to complexity and scope. Experience in efficient handling of individual cases has increased, less time is spent on each one. The time available for issues of general interest has therefore increased. On the other hand, these issues have also expanded in scope, as well as in number, and therefore are increasingly difficult to conclude.

Individual cases give rise to issues of more general, principle interest. Even a single case can instigate proposals of legislative amendment, provided the problem seems relevant, as a principle or to a great number of children.

Another change is our increasing concern about the impact of developmental trends within society, partly because we gradually learn which ones most strongly influence conditions for children, now and in the near future.

In dealing with municipal, county and national administrations, it has become increasingly clear that very many of these bodies have too little knowledge about the individual needs of children, their behaviour patterns, and the impact of various measures and developmental trends in society upon the conditions for children. Often the Ombudsman is the only instance analysing the effect of a proposed measure in view of the consequences for the younger generation, e.g. when a new system of the distribution of national funds to the municipalities was introduced. In many cases an institution or office is unaware that the matters it deals with have any influence on conditions for children, e.g. the Ministry of Defence or the Ministry of Oil and Energy.

It also becomes increasingly clear how the conditions for parents change. Being a parent is more difficult now then ever before in history. So the Ombudsman points out that changes within a society or increase of knowledge may lead to conditions which have negative consequences for healthy growth and development.

Some of those changes threaten or destroy valuable aspects of the environment of which we are unaware or do not recognize as true values until the loss is a fact. When we do realize the loss, such changes can necessitate changes in the balance between parental and public responsibility for children.
Naturally the work of the Ombudsman must be based on conditions for children in our country. And Norway has a number of statistical records of which we have no reason to be proud. Norway has the highest accident-rate for children in Scandinavia, even in Europe for some types of accidents. We have a higher neonatal mortality rate, the shortest school-day for 7-10 year-olds in Scandinavia, the lowest percentage (less than 30 %) of preschool children in nursery-schools and kindergartens in Europe. Also, more universal trends are apparent in our country :

- In many societies the nuclear family no longer includes several generations. Parents thus have lost a familial support-system, which in its turn means that parental responsibility comes down on the parents alone, more often than ever before. New support-systems can be difficult to establish, particularly in societies where the labor-market requires frequent up-rooting. As one-five-year-old said, "Oh, we do have a home, but no place to put it". The consequences for public planning include not only the geographical relationship between housing and places to work, but also the establishment of compensatory aid- and support networks.

- An increasing number of parents are single, involving not only diminished pos-sibilities to share the cares, worries - and joys - of parenthood, but frequently also a strained financial situation. Many single parents establish new relationships. While step-parents were common enough in the old days, when e.g. mothers died in child-birth, our modern step-children have step-parents as well as biological parents and often new sets of step-grandparents as well. Thus the children may have a larger number of adults who care for them, but they may also be exposed to a greater number of brief relationships, with an increased number of separations caused by adults moving in and out of the family. On the other hand a longer life-span means that many teenagers and young adults still have grandparents alive, - albeit grandparents who often are unavailable, not only because they live far away, but because grandmother is no longer knitting as she waits for her grand-children, but is busy with a full-time job and 3 weeks summer vacation.
  This must imply not only the support-systems mentioned above, but better financial support for single parents as well as other measures aimed at ameliorating the effects of divorce for children.

- The declining birthrate in many parts of the world means that many children have few - if any - siblings. In Norway 80 % of all families with children have 1 or 2 children. Only 13 % of all children have a younger as well as an older sibling. This has led to a drastic decrease in the child's possibilities to learn from the older ones as models and for being a model and a care-taker in relationship to younger children. The opportunities for social learning are practically non-existent in sparsely populated areas, particularly because compulsory school starts at age 7, so few of the younger ones can go to nursery school and kindergarten. The lack of siblings means that children do not learn from eachother, nor do they learn by experience at home that rules are general not individual. This parental responsibility becomes more difficult. The need for establishing groups for children increases. Looking to the future the need to learn democratic ground-rules, how to communicate with age-mates, how to adjust to rapidly changing conditions will become increasingly important. Many of these abilities can only be learned in the society of children, while the family must still teach the child to solve conflicts with superiors and with people who are more permanently present, people the child cannot just leave when conflicts arise. Also, there are far fewer means within the home by which a child can learn to take on responsibility and learn to care for others as well as for himself. The household tasks available and suitable for young children are no longer evident.

- In many countries, children now go to school until the age of 16 or more. This is a huge contrast to conditions in other countries and to what was common just 100 years ago. Children had to earn their own living early, down to the age six, -while being considered an adult in this sense at the age of 14 was common indeed. Now young people are considered more or less dependant up to the age of 18 or even much longer. Parental responsibility for each child lasts many years longer than was the case before. Combined with the decreasing possibilities for learning to take on responsibility within the family and the shortage of jobs for young people, the transition from child to adult takes more time and is less clearly defined, a situation which itself breeds conflict, within and outside of the family.

- Increasing traffic, population density and increasing distances between home and work, particularly when combined with a lack of consideration of the needs and behaviour of children in urban and rural planning often destroy play- and activity areas, but also decreases learning opportunities and the time available for adults and children to spend together. In earlier times and in less technically developed societies children could acquire skills by watching and participating in adult employment. Also, groups of children engaged in their own activities were aware of adult presence, and the control possibility involved, even when adult control was unnecessary. In many modern housing-developments, outdoor play may be safe during the day, because all cars leave the neighbourhood when parents go to work. However, when the cars go, the adults also disappear, taking learning-by-imitating opportunities and adult supervision, contacts, and control with them. In other areas traffic encroaches on play to a disasterous degree, - 50 % of Norwegian parents do not dare send their preschool children out to play alone, - a very low percentage compared to many American communities, but a violent change in the amount of worry involved for present parents compared to previous generations. Adding these facts to the diminishing number of children and the explosive development within the field of mass- media, a picture of many,

many lonesome children appears, children spending time alone at home, perhaps in the company of a television-set or a video-machine, possibly choosing programs which add excitement in a dull or boring existence. This means that we need rules for planning to provide, conserve and develop play- and leisure areas for children and youth, with different requirements from toddler to adult age.

- Add finally the insecurity of many parents, who have learned not to be authoritarian, but not that they should not relinguish authority, with older generations' values and attitudes under constant debate and counteracted by the attitudes children learn through soap-operas and violence films, without a supportive network close by. This implies the need for parent education, starting in grade-school. Also, this type of education should also be a major responsibility for radio and television, and of "Well-Baby"-clinics etc.

At this point I should like to quote Goldstein, Freud, and Solnit. On the very first page of their book "Before the Best Interest of the Child"[1] they say, "So long as the child is part of a viable family, his own interests are merged with those of the other members. Only after the family fails in its function should the child's interests become a matter for state intrusion". This statement in only true as long as the adult family members have the child's interest in mind and at heart, willing when necessary to give the child's needs priority over their own. Also, I should like to add : "Before - and to prevent - family failure, the child's interest should be a matter of state commitment". The goals and aims of public responsibility should be to maintain and protect those aspects of society which are valuable for children and to protect the growing generation from the negative consequences of society development and change. Also, public intervention and planning are often necessary to compensate lost values which are beyond the means of individual families to repair or provide substitutes for. Establishing playgroups, nursery-schools, or kindergartens as compensation for the lack of siblings or playmates or to provide safe play opportunities must often be the responsibility of organizations, community groups or municipal or state authorities. Establishing such compensation is beyond what ordinary parents can provide on their own.

The rights and needs of adults are well taken care of in laws for community planning, employment, and welfare benefits. Similar rights based on the needs of children hardly exist. A main concern of the Ombudsman is the fact that legislation concerning the rights of children, while improved over the years, is still weak, compared to legislation governing the rights of adults. The main weaknesses certainly differ nationally, even locally, in the degree to which they apply, but I believe we can find these weaknesses everywhere, - namely that the rights of children are often

a. indirect, -i.e. the right is given to an adult (often the parents) on behalf of the child, or

b. conditional, often in the sense that the right is only valid under certain conditions, e.g. that funds are available or that the parents are willing to cooperate to ensure the right of the child, or

c. non-existent even in connections where adults, under very similar, even identical conditions, have clearly stated rights, and where there is really no reason why similar legislation should not apply to the younger generation.

Norwegian health legislation provides examples of the two first weaknesses : By law parents have the right to take their child to "Well-Baby"-clinics for check-ups, innoculations etc. 95 % of all parents use this opportunity, exersize this right. But nothing happens if a child is not brought to the clinic after the public nurse has visited the family. The 5 % who do not come may well be the children who actually need this service most. Now, as the issue involved is really the health of the child, - would it not be more reasonable that the right to health care was the right of the child ? In practical terms, a law amendment, making the child the subject of the law, not the object, would make little difference. But the amendment would imply that the parents, while losing a legal right, still had the responsibility for obtaining the service for their child. The public health services would then be obliged to provide such care, even if the parents objected or when they neglected their duties.

"Well-Baby"-clinics are supposed to provide regular check-ups up to the age of 4, - a limitation which in itself illustrates a weakness, while the school health services only have responsibility from the age of 7, leaving a 3-year gap. But economy is tight, even in Oil-Norway. In an increasing number of municipalities, therefore, staffing is reduced, so that the clinics are unable to cope with the 4-year, even the 2-year, check-ups. The right to health care is therefore tied to available funds, - or the priorities of the governing body, which might well choose to build a new road, requiring little in terms of salaries, in stead of providing for the basic needs of children.
School legislation provides an example of the third weakness, namely the non-existant right for children even when there is no reason why children should not have rights similar to the rights of the adults. The School Act has chapters regulating employment conditions for the adults. Also the Labor Act governs the physical requirements for the employees, i.e. again the adults. - Amongst other rules, work may be stopped if temperatures rise above a permissible level or if some threat to the employee's health or life occurs. An adult may e.g. ask for air-condition or other means of decreasing the temperature in the class-room. But 25 students have no similar right, so that if the teacher enjoys a hot-house climate, the students must suffer and endure. In another case, a pupil was defined as being a threat to the health of teacher. Work was stopped until the pupil was removed, expelled from school. Knowing how difficult it is to get rid of a teacher who may well be a threat to quite a number of pupils, one might ask if a similar procedure should not be available to the pupils. The amendment brought about, by the Commissioner for Children, went in

the opposite direction : Teachers are no longer allowed to expel pupils on these grounds. The Labour Act can no longer be invoked to get rid of troublesome children, - these problems have to be dealt with with the aim of solving the problem and helping the child, not getting rid of the problem and child, killing two birds with one stone.

When legislation confirming and protecting the rights of children is so weak, local politicians often find themselves in a very difficult situation. Even with the interests of children at heart, politicians, particularly with a tight budget, must give priority to tasks and projects the local community is legally bound to fulfill, such as building schools and paying teachers, keeping up sanitation-systems and establishing communication-systems. Apart from building and running schools, very few obligations are legally determined for the needs of children. Existing obligations within other sectors may swallow the entire budget. When the community has some possibility to go beyond these obligations and choose amongst a variety of possible and much-wanted projects, plans involving low-cost upkeep and preferably no staff often win. Or the community elects projects attractive to the voters, i.e. the adults. Taking into consideration that only 1/3 of all families in Norway have children under 16 years of age, it is clear that not only children are a minority-group themselves, but families with children constitute a minority amongst families. It is therefore not surprising that official good-will, publicly pronounced intentions of considering the needs of children in the planning process and prevailing legislation are not sufficient to ensure that the needs and rights of young citizens are properly respected and protected. Particularly when the needs of children conflict with the needs of well-organized or vocally strong groups, the viewpoint of children does not have much of a chance to win. Few local politicians have sufficient knowledge about the needs of children and the effects of neglecting these needs. Few politicians are willing to consider seriously the need to plan on a long-term, - not an election-term-basis. Furthermore, little knowledge is available concerning the economic gain involved in providing good conditions for children and their families. Politicians know what it costs to build and run a good kindergarten, - but they all too rarely know the economic consequences involved in not building and running such institutions. Recent longitudinal research indicates that children, given the opportunity of a good preschool educational programme, need less special education in grade-school, less money is spent for unemployment and other social security needs, as well as within the courts and criminal systems for these youngsters compared to those without preschool experience. The money saved amounted to 7 times the amount spent in running the preschool programme. Analyses of this type are all too rarely available. I do not mean to propose that children should be able to vote, but we do need to remember this consequence of their special status. As long as so few political parties give child-policy issues any kind of priority, some feel that it would hardly make much difference which party has its candidates elected. In my view, as long as this is the case, it should be all the more important to have the right to have individuals elected, - persons with insight, knowledge, and interest concerning children. Such candidates may be difficult to find. All politicians "love children", many have had children of their own. But adults who are in the midst of parenthood, perhaps carry fulltime jobs as well, rarely have time and energy to take on political responsibility as well. The practical problems are quickly forgotten, what it was like to worry about day-care is lost when the problems of teenagers come up, - and all of them fade into the past when old age problems loom up ahead. No wonder many elected bodies consist mainly of people well past childbearing age. Small wonder that issues concerning the elderly often take precedence over the issues vital to young families and their children.

Have we achieved anything ?

In many of the individual cases the Ombudsman has been of help, - in refering to other agencies, or in solving the problem in question. Particularly the children will call back to report on results. The adults do not do this, - governmental bodies do not inform us of the outcome of a case. With a total staff of 4, the office does not have the capacity to investigate the outcome or results of such cases. However, the newspaper clipping service does provide some information and occasionally we meet people who tell us about the reactions to our statements. So we do know that even if the result of any one case in not always the one we would have wished for, the result may be better for the children than the original proposal. Or the information provided in one case is used in other cases, by the administration as well as by the politicians. Thus, one way to achieve our aims is by informing local politicians as well as the public in general.

Informing the public is also done through the mass-media. The newspapers carry an increasing amount of items concerning children, which means that we have been instrumental in creating public debate, increasing public awareness.

On the national level changes take more time. Legislative work must pass through many stages. But after 6 years, things are beginning to happen. The Ombudsman has definitely played an important part in the following legislative measures :

1. The new law prohibiting physical punishment and treatment threatening the physical or psychological development of the child.

2. The new law governing distribution of videogrammes.

3. New regulations concerning hospitalized children.

4. Governmental guidelines for local planning to incorporate consideration of children's needs in urban and rural planning.

5. Security-measures for housing, automobiles.

Statements from the Ombudsman are used on all levels of government, as well as in colleges and organizations. Thus the impact can be wider than it would have

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been if the statements were sent only to the governmental body requesting an opinion. One example was the opinion opposing new regulations for nursery-schools and kindergartens. Having the choice between the established rules and the new proposals, many municipalities decided not to use the new ones, basing their decision on the Ombudsman's informative statement.

Proposals from the Ombudsman are now being circulated to other instances, proposals concerning procedures for divorce, railway ticket-systems, accident-prevention, health services and social service structures and procedures.

Another signal of the increasing impact of the Ombudsman is the fact that not only do Parliament members listen to the Ombudsman on request, but they themselves turn to the Office for information and view-points.

The Ombudsman and the future

Our ultimate goal is, of course, that the Ombudsman office should become unnecessary. We have a long way to go, even in a fairly wealthy, small and socially well developed country like Norway.

Good conditions for growth and development vary from country to country and within countries. The common denominator when we succeed, lies in the fact that the needs of children are satisfied, in one or the other of many possible ways. How to meet the needs of the young generation is a complex problem, partly because the needs change as the children grow up. Good conditions for very young children do not necessarily meet the needs of older children. A baby cannot survive without the constant attention of a caretaker, - the school-age child does as well without continual attention, while teenagers protest and oppose even temporary or sporadic adult supervision. Also, as society changes, new means of providing beneficial conditions must be found, to compensate for values lost or to counteract detrimental effect of the changes. Planning in ways to meet the requirements of small children, bigger children and youth, perhaps combined, is difficult and demands the use of imagination and knowledge on all levels. Basic prerequisites in this connection must be that

1. the needs of growing children and youth are well known to planners and policy-makers on all levels and in all the various sectors of society,

2. planners, policy- and decision-makers must be willing to give these problems and the solutions high priority. Children are, after all, the most valuable asset and resource any society has. This is stressed repeatedly, e.g. in election campaigns, but brought to the test, the automobile often has more or stronger supporters than children.

Respect for children and their needs should determine the further development of any society to a far higher degree than is the case today. Hope may lie in the present of declining number of children in many countries, dimmed by the plight of children in countries which suffer starvation and war. In both cases nations and communities will gradually be forced to increase all efforts to provide conditions under which children can grow up to be well-adjusted adults, able to take on the responsibilities of the future. Childhood has its own worth and each child his own value. But sitting back with the hope that this realization of human rights will become universal and the consequences taken seriously may take too long. For many decision-makers a more economical viewpoint may be necessary. Every child who has the opportunity to develop his or her potentials fully, is independant yet socially responsible, creative for the benefit of society as well as for himself, and will be an asset. As the number of elderly and old people increases, recognition of the future value of young people must also increase, along with the recognition of the present value of the same young people. Such recognition must determine the planning of society on all levels.

Information is valuable, but can be worthless if the consequences of knowledge are disregarded. Planners and policy-makers must therefore be willing to tailor their work according to the needs and rights of children and young people. The ways and means of doing this are numerous and challenging. Finding practical solutions should give scope for creative thinking on many levels and possibilities for new constellations of cooperation, e.g. between product manufactorers and community planners.

Information can achieve some of the results we want. But information is not always sufficient, particularly in connections where substantial financial resources are necessary for implementation of a right. There are so many conflicting interests, the needs of children are so easily set aside, traditional ways of thinking and attitudes to parental responsibility as well as to children have deep roots and a way of casting deep shades, even darkness, over new insights and their consequences. Legislation has long been wrapped in terms of adult interests, so much could be gained by just going through existing legislation, amending with the aim of focus on the child, with the child as the subject, not the object, of the law.

I should also like to see an "umbrella" legislation defining the rights of children outlining the responsibilities of local and national government to provide for the needs of children and their families. I should like to see a society based on the needs of children. I believe such a society would be better for all of us, as well as a valuable investment in the future of our world.

Within a rapidly changing society, and the rights of children being what they are today, I believe that our ultimate goal is still far, far away in the future.

Notes

1. Goldstein, J., Freud, A., Solnit, A., Before the best interests of the child, London, Burnett Book, 1980.

A CONCEPT FOR THE CREATION OF CHILD OMBUDSMAN FUNCTIONS

Frans Spiesschaert

Introduction

Children play a primary role in a great many sectors, and yet, they often have no influence whatsoever on policymaking. The resentment resulting from this has grown considerably during the last ten years. Concurrently, in various countries initiatives were taken to improve children's rights. Promptly a number of questions emerged on how to put strategies as to this problem into practice. These questions mainly relate to three areas, viz. the starting points, the functions to perform, and the institutional framework in which this may be brought about.

These last few years it was a research programme on general prevention in youth protection [1] that has animated the discussion in the Dutch-speaking part of Belgium on how to put strategies for the improvement of children's rights, into practice.

As far as prevention is concerned, the distinction with regard to the desired effects between tertiary, secondary, and primary prevention is common knowledge. Within the category of primary prevention another distinction is made between individual and general prevention. Various general prevention strategies can be distinguished : one can e.g. try to avoid risk behaviour, or to increase the tolerance of individuals or society towards some tension, or still to lessen the need for tolerance by easing the tension.

Classifications as the ones above, however, fail to take into account any view of social reality.

As a matter of fact, approach and prevention may differ substantially depending on the model that is used.

These are the basic elements of a linear causal reasoning :

- a problem can be objectively known and then be described and recognized by means of characteristics and symptoms.
- when a problem has been clearly described, one can look for its causes. This is a linear relationship of cause and result. There may also be multicausality.
- on the basis of the relationship of cause and result, one may predict, tackle, and finally, prevent the problem.

This reasoning looks upon each problem as a specific entity which requires a specific solution. As long as we arrive at the same causal factors for different problems, it means that the problems have not been described clearly enough, and that further differentiation, specification, and specialisation are needed until relationships of cause and effect become unequivocal. The prevention of these problems requires, of course, the same degree of differentiation and specialisation.

By contrast, a structural approach of social reality tends to emphasize the parallelism between the values, standards, dynamism and patterns, as they lie at the basis of culture, on the one hand, and as they find expression in social structures, in the institutions of society and in interhuman behaviour and relationships, on the other. Phenomena like influence, power and its aberrations, such as abuse of power, domination, competition, violence, etc. are as many focuses of attention.

Typically, analyses of social problems (problems relating to interhuman behaviour and relationships) are not aimed at specification ; they emphasize the existence of an important common denominator. In other words, they are aimed at generalisation.

Prevention as well will generally be set up in such an approach; it will undertake to modify the structure of society and the values of a culture. Prevention will not focus on the immediate restriction of problems. Conversely, it will pay a great deal of attention to upgrading the quality of life.

As a result of the structural approach of social reality, the promotion of the legal status of children and the multiplication of their chances of self-determination and of participation in democratic decision-making have become main centres of attention.

A lot of attention has been paid to a workable structure, which has to enable all those involved to tackle the problematic nature of the social position of children, and to provide together possible solutions.

The starting points, the institutional realisation, and the functions to be performed were the centres of attention in developing the concept of ombudsman functions.

1. The social potential

First a number of round-table talks were set up in Flanders [2]. These meetings had to enable those who, in one way or another, were actively engaged out of concern for the position of children in society, to valorize their practical experience. Although the scheme had to be strictly confined in terms of time, it was explicitly aimed at acquiring a broad understanding : we wanted to get a picture of the whole range of social sectors [3].

The findings of the round-table talks were extremely fascinating :

- apparently, there is a striking parallelism between the experiences with regard to the position of children, even if those experiences come from the most diverse sectors of society. The mutual recognizability of the experiences is particularly high, although knowledge about each other's experience across sectorial boundaries proves to be limited.

- The concern for the status of children is a remarkably universal theme.

- although the bulk of the experiences bear upon negative living conditions of children, also, what we might call, "positive" experiences are deemed relevant in terms of the social position of children. In this context I think e.g. of experiences that refer to the invalidity of stereotyped views, such as critical and realistic, i.e. "wise" child behaviour versus "thoughtless" adult behaviour, when children turn out to be able to dedramatize a divorce settlement ; or how children, often in difficult circumstances, prove to be capable of assuming responsible tasks and usually succeed fairly well ; or still, the phenomenon of the latchkey children, in which cases we usually gain inadequate insight in the problematic character.

- also experiences with respect to strategies for a better position of children are available, albeit to a lesser extent. They can be situated on various levels. [4] Whenever research results were related to strategies for a better position for children, they concentrated on the social context of the position of children and on the dominant opinions about children [5]. The children themselves take a singularly central part in these experiences. This might indicate that, even in the case of children, their emancipation movement is carried by themselves, as, indeed, is the case for emancipation movements of other groups.

- as far as strategies for a better position of children are concerned, not only concrete experiences were referred to, but also a lot of statements were formulated as perspectives. Utterances such as "could", "should" and the like were the order of the day. Together with the fact that opinions about strategies were formulated much less spontaneously, but to a larger extent after explicit questions in that direction, this seems to indicate to us that people are left with a lot of questions about what exactly could be done and about how to do it.

A renewed and growing concern for the position of children, as shown by the research results, is of course no isolated Flemish phenomenon, but on the contrary a very universal theme. The international year of the child, and shortly after the year of the youth, as well as the current preparation of a convention of the Rights of Children are in this respect only the tip of the iceberg.

Another recurrent issue is the explicit attention for the child as a person, an individual, which self-evidently results in attention for the right of children to autonomy, the right to self-determination, the right to help shaping society, the right to participation in democratic decision-making.

These are new emphases that co-exist with the permanent attention for what we might call the specific needs, or the development needs of children. With respect to these needs the attention is gradually being focused on restating them in terms of special rights of children and also on making these rights enforceable, also by children.

2. An institutional framework

The last ten years witnessed the creation, in different countries, of institutions - many of which are represented here - that were inspired by the above-mentioned evolutions of reasoning about the social position of children, and designed to stimulate and to support changes in the structure of society on the basis of this reasoning.

That is the common denominator of all those initiatives. But there are, of course, also a great many differences, such as the territorial area, the social sectors that are focused, or the initiator (public or private), etc.
Especially the latter of those differences has, in our opinion, a symbolic meaning. Indeed, a public initiative - and in this field quite some initiatives are public ones - expresses the authorities' willingness to constantly adopt a critical attitude towards their own actions.
Hence, choosing an institution to entrust with a number of child ombudsman functions, proves to be not merely a technical question. It has explicit significance.

In such a context and with various examples abroad to benefit from, it seems opportune, in Flanders as well, to entrust a body with such functions. If we were to choose an existing institution, it would be highly justifiable, considering both contents and shape, to invest the youth protection committee [6] with such a assignment.
First we would like to give some formal arguments why the youth protection committee may be deemed an authoritative body. To be sure, the importance, the weight, and the value of such an institution depends to a large extent, on the authority it is invested with. Indeed,

- the youth protection committee is the sole public initiative in the sector of youth welfare.

- it has authority, because, through its composition, it is a platform of people representing the whole range of welfare, people who are, in some specific way, familiar with children.

- it has authority, because it has a great deal of independence and autonomy, which makes it rather intangible to direct influence from everyday party politics.

Formally, the youth protection committee has a number of qualities which strongly match the fundamental properties of the ombudsman institution, viz. an authoritative public body enjoying a high degree of autonomy towards the day-to-day government policy.

Also regarding contents, i.e. as far as its powers are concerned, the youth protection committee would be a good choice. Since the circumstances in which children are raised belong to its competence, it covers all aspects of youth welfare, in its broadest sense. It is concerned - and rightly so - with the child's living conditions on both the educational, cultural, social, and economic levels.
Owing to its task of general prevention, the youth protection committee also has a duty to help creating those conditions that stimulate general welfare. This is possible, not only through eliminating factors that hinder welfare, but also through furthering factors that entail more welfare.

Incidentally, a similar justification can be developed, mutatis mutandis, for the public centres for social welfare [7] to be invested with such an assignment. On account of the research results with regard to the problem-solving behaviour of children [8]. the proximity of the public centres for social welfare may even be an important factor.
The attention has already been drawn to this before, for that matter, notably by the Research and Documentation Centre for the Rights of Children [9]. The possibilities of developing such a scenario are certainly worth paying further (experimental) attention to.

3. The necessary know-how

The foregoing shows clearly that youth protection committees will focus their actions on children's rights when performing child ombudsman functions. Attention should go beyond the narrow field of law. Efforts for a better legal status for children must be seen as a strategic instrument for the promotion in the social position of children. Improvements in the social position of children must in time be laid down in legal rules in order to safeguard the human dignity of children. They have to contribute to a situation where children have a say in social life, which in turn can grade up the quality of their relationship their environment.

Concrete references may be found in the Universal Declaration of Human Rights, where it bears upon human rights of children, and in the Universal Declaration of Children's Rights, where the preferential rights of children are discussed. The main objective will then be to strive for the recognition of these rights of children, and to see to their actual administration.

The most current method in this context is, what we (have come to) call, the exemplary approach. This means that individual matters are tackled and studied in depth, not so much for their individual interest as such, as for their exemplary value to some aspect or other of the social position of children. As to the elimination of factors that hamper the well-being of children, i.e. where violations of children's rights are concerned, it is easy to imagine such an approach. Indeed, it can be fairly well compared to the traditional jurisprudence, where the scope of legal provisions is delimited and defined more accurately on the basis of applications of the law.
The above-mentioned exemplary approach is also appropriate for the promotion of the general well-being of children. It is, however, striking to see how difficult it is for people to visualize this aspect of the promotion of the position of children, or, to put in welfare terms, to visualise general prevention and an exemplary approach in this context.

Yet, in daily life we are all familiar with the fact that human activity is not only inspired by the effort to avoid displeasure (in welfare terms "the absence of welfare"), but certainly as much by the pursuit of pleasure (again in welfare terms: "the promotion of welfare").

Developing an exemplary approach as a method of promoting the general welfare of children means, in essence, that the attention for realizations is not motivated by the mere importance of the realizations, but rather by their opportunities of opening perspectives.

So this is a plea for abolishing a prevention concept that boils down to piling up sandbags in order avert threatening breaches in a dike.

In fact, the foregoing has already led us on our way to the development of a concept for the creation of child ombudsman functions. Before we look any deeper into this, I would like to summarize the main points as described above, simply in order to be perfectly clear :

- we are talking about rights, i.e. very important matters in our type of society.
- not only special rights of children are at stake, but also human rights for children.
- attention is not only focused on violations of those rights, but at least as much on attempts to improve them.
- the method used is a exemplary approach, i.e. in individual cases, concentration is put upon those aspects that have a general, exemplary character.

Furthermore the realization of child ombudsman functions will have to concentrate on both the cultural pattern and the structural framework. We need to keep an eye out both for what is happening on a micro level and for what is important on the overall scale. I would like to enlarge on three topics.

The social position of children or even its facets are not preferential themes in public opinion at this moment. Attempts by individuals in their face-to-face relations with children, to make a critical and conscious analysis of the values that underlie those relationships, are kept private. Those people hardly have any knowledge of similar attempts. Mutual contacts are almost non-existing. Parallel developments on a larger scale fail to take place. Therefore, one of the major tasks of a centre for the promotion of the rights of children will be to activate the public discussion about this theme. A wide range of actions may be devised. Some techniques may e.g. be borrowed from information and sensitization campaigns. Such campaigns are aimed at intensifying public discussion. It is no secret that the confrontation of values and ideas, rather than propaganda for one so-called "right" opinion, has the most fruitful effects [10]. One will, of course, realize that children are fully-fledged partners in such a public exchange of views. In view of the current position of children, special attention will be given to the creation of full chances for children to communicate their own experiences with regard to welfare obstruction and welfare promotion.

Also on the level of policy-making there is a total lack of specific attention for the promotion of rights of children. It will, therefore, be another task for a centre for the promotion of the rights of children to examine which bodies are currently looking after interests of children and are acting as pressure groups vis-à-vis policy-making.

A form of lasting cooperation will have to be entered into with those bodies, and analyses will have to point out how these bodies' actions can be backed up to enhance their impact. Of course, children as well want full opportunities to participate in shaping their living conditions. In this respect we shall fully support already existing efforts for self-organisation of children and we shall also strive systematically and relentlessly for direct participation of children in democratic decision processes.
There is no such thing as a separate children's world, no such things as separate child matters, no such things as separate child problems. Each and every aspect of the way in which we have organised our society has direct implications on the living conditions of children. Primarily for those sectors that, so far, have paid very little attention to the involvement of children in them (sectors such as social housing, town planning, labour organisation, health care, etc.), a centre for the promotion of the rights of children can check out what positive impact and what negative impact the current situation has on children. The centre could examine new policy options in such sectors for their implications on children. It can help to encourage a situation where the experiences and opinions of children are taken into account.
As it becomes clearer that, children are involved in all sectors of society,

and in what way exactly a greater importance may be attached to an advisory function of the centre. Such advice could pay special attention to what can be done in the short term (i.e. with minimal alterations and efforts) to improve the position of children, through highlighting what is already happening on a minor scale.

Finally and with great stress, I would like to warn for too voluntaristic an approach, when it comes to struggling for a fair position for children in society.
Changes that are founded on voluntarism, primarily benefit to already privileged groups of society. A legal framework with an imperative character is a top priority, if we want the so-called deprived groups - in this respect certainly priority target groups - as well to enjoy the welfare enhancing effect of a better social position for children. Let's put it straight : since we are talking about the rights of children, the imperative character refers to the duty of society to actually administer these rights.

Conclusion

In the year 1900 the Swedish woman writer Ellen KEY published a book entitled The century of the child. In educational circles and elsewhere, even in every day language, this title has become a notion.
After almost 90 years, isn't it about time children had their appropriate place among the people ?

We have tried to prove that the social potential is available, as well as an institutional framework to impel a change like that, and that the required know-how also is at our disposal. What, then, should prevent us from taking action as of today ?

Notes

1. In 1986-1987 the Minister for Families and Welfare was found willing to intrust us with such an assignment. The results of a preparatory exploratory survey were published as Review 2 of the Research and Documentation Centre for Children's Rights : E. VERHELLEN, F. SPIESSCHAERT, Jongerenombudsfuncties, Gent, 1986, R.U.G., Seminarie en Laboratorium voor Jeugdwelzijn en Volwassenenvormi

2. These talks were fostered by the King Baudouin Foundation within the scope of the foroms of its welfare programme.

3. At this moment, I will not enlarge on the methodical aspects of the phased research scheme, for which we called in the help of an advisory committee of experts. For a detailed description, see E. VERHELLEN, F. SPIESSCHAERT, Jongerenombudsfuncties, 1986, op. cit.

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4. In the context of a structural approach, usually, a distinction is made between four levels : i.e. the legislative level, the semi-legislative level, the mentality towards some topic and its overall social context.

5. and therefore mainly the third and the fourth of the structural levels.

6. Under the competence of the Belgian Ministry of Justice, and afterwards under the competence of the Ministry of Welfare, one youth protection committee was created per district and parallel to the juvenile court. This youth protection committee can take action in the same circumstances as the juvenile court, though only if the parents require or accept its help. The youth protection committee is therefore competent to provide voluntary assistance, also called individual prevention. In addition, it has a task with regard to general prevention. It is especially the latter of these tasks that we bear in mind here.

7. the so-called "Centres publics d'Aide sociale", created in every Belgian municipality by the organic law of 8 July 1976. Section 1 of this law stipulates that everybody has a right to social assistance which is intended to enable everyone to lead a life according to human dignity. The "Centres publics d'Aide sociale" are charged with that assistance.

8. cf. e.g. Fortuin, W., "Kinderombudsman. Werkverslag van een onderzoeksproject", 1981, Stichting voor het Kind, Amsterdam.

9. Verhellen, E., "Het O.C.M.W. en welzijnsbeleid op lokaal en bovenlokaal vlak", in, Het lokale geweten. Samenwerkingsvormen met en vanuit het O.C.M.W., (Verslag Studiedag P.O.W.), Berchem, 3 mei 1986, p. 105-129.

10. cf. e.g., Bouverne-De Bie, M., Verhellen, E., "Een emanciperend media-beleid voor jongeren", Seminarie en Laboratorium voor Jeugdwelzijn en Volwassenenvorming, Rijksuniversiteit Gent, 1983.

Part II :
Basic principles in the strategies for children's rights

Child Advocacy

INTRODUCTION

Within the children's rights movement, child advocacy focuses on changing systems, institutions and laws in our society, in order to increase the children's possibilities of self-determination. As a matter of fact, this form of furthering interests is aimed at improving those living conditions that harm or oppress children. Efforts made to benefit individual children, as extensive as they may be, cannot remedy this. Structural changes are considered to be necessary, and this is exactly the purpose of child advocacy. In this sense, it is a basic idea of the children's rights movement and by far the most common strategy.

This publication contains a large number of initiatives which can be regarded as realizations of child advocacy.

Sally Castell-Mc Gregor (Australia) introduces the methods used by the South Australian Children's Interests Bureau. The municipal ombudsman for children in Jerusalem, who is still in an experimental stage, is described by Menachem Horovitz (Israel).

Unlike the other projects which have resulted from private initiative, the aforementioned projects are public initiatives.

Two texts hold, to a certain extent, a central position. First of all, there is Jean-François Boulais who tries to show how "le Comité de la Protection de la Jeunesse" in Quebec can be seen as an ombudsman institution. Jean-Pierre Rosencveig (France), in turn, shows "in which terms and within, which boundaries, the french juvenile-court judges play the role of mediator". In France too, the magistrate of a juvenile court is not officially appointed as an ombudsman. A lot of these magistrates are not even aware of the possibilities they have at their disposal in this area.

René Bertaux and Jean-Pierre Bartholomé (Belgium) each introduce an initiative from the French-speaking part of Belgium. Both have very comparable goals, but differ rather strongly in their specific methods, in the development of concrete strategies.

The London based Children's Legal Centre is a national, independent organization, which was founded in 1979 as the outcome of the international year of the child. Jenny Kuper (U.K.) explains that child advocacy is one of the main concerns of this organization. With reference to the international year of the child in 1985, the first children's legal advice centre was set up in Amsterdam. Inger Wouters (the Netherlands) draws a picture of this initiative.

AMOK, an initiative that was taken in Flanders, is in fact an information and advice centre for young people. Nevertheless, it is the only centre registered under the name of ombudscentre. In this text, Jo Labens (Belgium) pays special attention to the origins and growth of the centre and to the fact that they are still working intensively on their methods.

Manuela Eanes (Portugal) introduces "il Instituto de apoio à criança". This Portuguese private initiative has been taken by people belonging to several professional areas and their objective was to contribute to the entire development of the child and to the promotion of its rights.

THE SOUTH AUSTRALIAN CHILDREN'S INTERESTS BUREAU.
AN AUSTRALIAN INITIATIVE IN FURTHERING CHILDREN'S RIGHTS

Sally Castell-McGregor

It is with very great pleasure that I find myself here with you today. It does not surprise me that the Australian representation at this Congress is indeed small : this illustrates more the vagaries of distance than a lack of commitment to the central theme of this Congress - the rights and needs of children and how best to promote them. For those of you who have not visited Australia, it may be difficult to envisage the vastness of the continent, the sparseness and diversity of its population and the tyranny that distance can cause. Encompassing a total area of 7,682,300 square kilometres, Australia has a population density of 2 people per square kilometre compared with 353 people per square kilometre in the Netherlands and 228 people per square kilometre in the United Kingdom. Australia is divided into 7 states and territories - Western Australia, South Australia, the Northern Territory, New South Wales, Victoria, the Australian Capital Territory (which boasts Australia's capital city, Canberra) and Tasmania. Projections by the Australian Bureau of Statistics indicate that in 1986 approximately one-fifth (3,466,300 or 21.80 %) of Australia's total population of 15,973,000 was born overseas with migration from the United Kingdom and Eire providing the largest population intake. Australia's own indigenous or Aboriginal population for 1986 is estimated at 179,800. Australia's Aboriginal population, having declined seriously between 1788 and 1940 is now rising, although, as I shall discuss in this paper, our indigenous population is still badly disadvantaged and over-represented in morbidity statistics.

Australia's population has traditionally been settled around the coastal belt, where there is a ready water supply and easier climatic conditions. Inland Australia is largely an arid desert zone where nomadic Aboriginal groups have lived traditionally.

Australia has a Federal political system; there is a national government, which applies Federal law, to which all States and Territories elect the members. In addition, each State and Territory, with the exception of the Australian Capital Territory, has its own Parliament and legislature. The relationship between State and Federal laws is a constant source of debate with State being, in varying degrees, traditionally wary of centralist power and fiercely defensive of "States' rights". This division of powers has implications for children. For example : in the field of Family Law, which is Federally administered through the Family Law Act. This Act deals with marriage breakdown and its attendant difficulties - such as disputes over custody and property. Children of non-married parents are not subject to this enlightened legislation, although several States have agreed to "refer" their powers in this particular case. Others, like Tasmania and Queensland, are fiercely resistant to any Federal encroachment on States' rights (no matter about the children's !) and retain powers in respect of those children of de facto relationships.

Thus, certain major areas affecting children and families are subject to Federal law (marriage breakdown; social security and health benefits, Aboriginal affairs), while others (such as child welfare laws, including adoption, State criminal law codes; education; health) are the preserve of the States, which receive Federal Government grants on an annual basis. The present economic climate and its associated fiscal restraint has had an impact on human service delivery - reduced grants to the States means cutbacks at State level and increased competition for what funds there are. A familiar story !

I have provided this brief "pen-picture" of Australia to illustrate that a uniform approach to the needs of children and families is complicated by our Federal political system. While there are informal arrangements between Health Ministers and heads of Community Welfare Departments, for example, it is not always easy to translate the goodwill into practice. While we have seen excellent co-operation at Federal and State level in facing and managing A.I.D.S., the Premier of one State, Queensland, despite the objections of his Health Minister, banned condom selling machines at Universities ! There is even a ban in this State on sex education in schooltime, a state of affairs which could amaze our enlightened Scandinavian colleagues !

Examples such as this illustrate the difficulty in furthering children's rights nationally. Apart from the recently reconstituted Commission for Human Rights and Equal Opportunity - a Federal organization - there is no statutory national body which devotes itself exclusively to furthering the rights of children. Indeed, at a recent conference convened by the Commission, children barely rated a mention. The Human Rights and Equal Opportunity Commission is, however, conducting a national inquiry into the plight of homeless children, to which the South Australian Children's Interests Bureau will provide a submission. The implementation of the recommendations of the inquiry, however, is dependent on the commitment and goodwill of the individual States. The Australian Council of Social Services is a tireless advocate for better income levels for families and young people and their concerted efforts, backed up by groups such as my own, has resulted in a commitment by the national government in the laudable goal of eradicating child poverty in five years. Yet, at the same time, income support for teenagers aged 16-18 will cease in December in preference for various training schemes.

Other "advocacy" groups for children specifically, are either connected with legal services or are voluntary bodies - such as the Melbourne - based Children's Bureau of Australia which struggles valiantly to keep going on minimal income.

Thus, the Children's Interests Bureau is the only statutory children's rights group in Australia and although its mandate is confined to South Australia it has close contact with the other bodies mentioned. Established in 1983 by amendments to the South Australian Community Welfare Act, (the philosophical and practical basis of the work of the South Australian Community Welfare Department), the Bureau has the following mandate :

a. to increase public awareness of the rights of children, and of matters relating to the welfare of children, by the dissemination of information, or by any other means the Bureau thinks appropriate;

b. to carry out research or conduct inquiries into such matters affecting the welfare of children as the Bureau thinks fit or the Minister directs;

c. to develop within the Department such services for the promotion of the welfare of children as the Minister directs;

d. to monitor, review and evaluate the policies of the Department in relation to children;

e. to carry out such other functions as the Minister may assign to the Bureau; and

f. to report in writing to the Minister, in accordance with his directions on the work carried out by the Bureau.

The Bureau consists of a permanent staff of three and a Ministerially appointed group of ten, most of whom have a reputation of excellence in their field, and work in non Government positions.

In carrying out its specified functions, the Bureau is partly subject to the direction of the State Minister of Community Welfare, to whom it is responsible, (section 26 (3)(b) and (c)), and partly independent, (section 26 (3)(a) and (d)). The point has been made that the Bureau's close affinity to the Department of Community Welfare by virtue of being 1. set up under its Act and 2. being responsible to the same Minister, makes its genuine independence questionable. Suggestions have been canvassed such as establishment under a separate Act and responsibility direct to Parliament - similar to our Ombudsman system.

After four years working close to Government and taking up on occasions quite politically sensitive matters involving children (leaving home, termination of parental rights, being two examples), I am personally convinced that inroads into Government processes and decision-making are essential to effect genuine reform and change. We are very fortunate that in South Australia we have a Minister who is deeply committed to children's interests and has supported the Bureau's work at all times. To have an advocate at Ministerial level when resources are scarce is also a distinct advantage. At a time of overall cutbacks in human services in South Australia, the Department for Community Welfare and the Children's Interests Bureau have received increased funding for child protection programmes. We are fortunate, too, in that the Bureau is accepted by all political parties and is used by individual politicians - Federal and State - as a source of information and advice.

What has been unique about the South Australian Children's Interests Bureau is the success it has had in effecting major social welfare and legal reform from within the system. Areas in which this is most apparent are child protection and foster care - two traditional "welfare" responsibilities. Apart from being represented on major Government established committees and reviews (including Child Sexual Abuse; Domestic Violence and Child Welfare Law), and preparing major submissions on Adoption policy and practice, children as victims of crime and property and maintenance rights, the Bureau has developed into a "de facto" ombudsman for children. This was a gradual process; members of the public (particularly foster parents) and other professionals would approach us when major "life" decisions were being planned for children who were in foster care, (and usually had been for a long time) and for children in need of care. Approaches to the Bureau of this type fall into three broad categories :

- complaints about professional and procedural practice;

- requests for a member of the Bureau's permanent staff to attend case conferences as the child's advocate in complex cases;

- requests to intercede when critical decisions about children were being contemplated or where decisions were considered "wrong" and contrary to a child's best interests.

Into this latter category falls the vexed issue of reunion of children with natural parents after long periods in foster care and professional concern about decisions made by Courts and statutory authorities about the return of children to families where abuse has been serious. South Australia is not alone in facing these complex matters. While taking up individual cases may prevent a further exacerbation of one particular child's distress, clearly this is only "nibbling at the edges". The real need is for clear professional guidelines and practice principles which do not leave children at risk or in limbo. To avoid the latter happening, the Children's Interests Bureau has worked in close co-operation with the Department for Community Welfare to develop clear guidelines on State intervention in families, case conference procedures, rights of foster parents and permanency planning. The State Department for Community Welfare has made child protection its top priority and rather than regarding the Bureau approaches when mistakes occur defensively, it has reacted creatively and constructively, seeing this independent children's advocacy group as having a critical and justifiable role in reviewing its policy and practice.

The culmination of this co-operative approach has been the recent South Australian Government's decision to establish, by law, a Child Advocacy Unit within the Children's Interests Bureau with prescribed functions and powers. In a recent independent review of child care law in South Australia, many people identified the Bureau as the proper body to provide independent advocacy for children at risk and/or in State care. Funds have been allocated for five senior people, with backgrounds in the social/behavioural sciences and/or law. These child advocates will operate under the broad children's rights mandate of Section 26 of the Community Welfare Act and will monitor the planning processes of the statutory authority, attend mandatory case conferences held when court action is necessary to protect a child, instruct the child's separate representative and monitor the progress of children in long-term State care. This is quite a unique approach -combining some aspects of the guardian ad litem concept with ongoing external monitoring and reviewing powers. Once again, the emphasis is on changing from within the system by providing a source of excellence in both knowledge and professional practice. South Australia in on the way to achieve one of the best co-ordinated and co-operative child protection systems in the world.

At this point I would like to mention the particular problems, faced by our indigenous Aboriginal people. If there is one Australian issue which merits the attention of international children's rights bodies, it must be the health of Aboriginal children. It is a matter of national shame that Aboriginal child mortality is three times higher than the national average and up to 36 % of Aboriginal children under 10, in some areas, suffer from some form of trachoma compared with 1.6 % of non-Aboriginal children. A major problem is a lack, over many years, of adequate statistical data, e.g. data not collected on a racial basis in births and deaths registers. This is related to the fragmented nature of data collections on health of all Australians. What is collected is largely inaccessible; what is collected is largely not analysed.

Up until the early 1980s, the focus has been on the critical state of Aboriginal children and infants' ill-health, with the emphasis on disease management through western medical practice. Now, the critical state of Aboriginal life expectancy and adult disease has changed the focus to lifestyle diseases, which has involved an exploration of the links between social pathology and social and individual health practice.

Major health concerns identified by Aboriginal people are :

- the need for Aboriginal control over delivery of health services so that cultural values can operate e.g. in ways of giving birth/dealing with petrol sniffers;

- child nutrition and growth patterns;

- Trachoma;

- Ear, nose and throat infections, particularly otitis media;

- respiratory infections;

- skin deseases;

- petrol sniffing and drug taking;

- gastric infections.

Aboriginal people are also demanding the return of their children who were, and still are, being taken into white care. Aboriginal women particularly are demanding that their right to rear their children be recognised. Studies have revealed that even in urbanised Aboriginal families the style of childrearing is "Aboriginal" rather than similar to white styles. National Aboriginal Child Care Policy states that all Aboriginal children should be cared for by Aboriginal families because they are the best people to do so. But in view of the situation of Aboriginal family breakdown, recidivism, the alarming state of adult health, poverty, unemployment and early death, to what extent does the State have a responsibility to intervene in the early lives of children to ensure that their rights are addressed ?

The national policy needs to be seen as a political position which may in effect give rise to a rigid implementation, thereby denying some Aboriginal children adequate care.

The Children's Interests Bureau believes that these complex matters have to be raised and debated. While there is Aboriginal representation on the Children's Interests Bureau, there is clearly a need for systematic overall advocacy of the rights of Aboriginal children. To this end we are presently negotiating with Aboriginal groups for the appointment of an Aboriginal child advocate who, working under the Bureau's auspices, can further the rights of these children backed by an international network. On another front, the Bureau is preparing an Aboriginal Child Health policy for discussions which draws on international World Health Organisation experience of health delivery programmes in developing countries.

The range and number of contacts made with the Children's Interests Bureau is diverse and increasing, as Appendix I illustrates. The identification of the Bureau as a place with information about children's rights locally, nationally and internationally, is a significant trend with school children contacts rising steadily. While some of the latter have individual problems, many want assistance with school projects on such topics as child abuse, divorce and children and "street kids". Working in conjunction with the Legal Studies curriculum advisers in the South Australian Education Department, information packages are being prepared for use in legal and social studies courses.

One of the Bureau's principal duties is to increase public awareness of the rights of children. There was never any question in the Bureau's mind that a constructive and mutually useful relationship with radio, press and television was essential if we were to achieve this aim. As the Bureau becomes better known as a source of informed comment about a number of children's interests matters and as a source of information about overseas developments and current research, correspondingly our media profile has increased. Virtually every media outlet in South Australia and several major interstate newspapers have approached the Bureau as a source of immediate information. This can be in connection with a current newsworthy item, (for example, the current focus on child sexual abuse), or as part of feature articles or education programmes. The Australian Broadcasting Corporation, for example, used Bureau expertise in its national programme "Young people and the Law". We have been asked by a number of issues affecting children - divorce and access, child suicides, child abuse, corporal punishment, segregated schooling, child welfare law and teenage pregnancies. National television programmes on child abuse have used the Bureau as a consultant on content and post programme counselling for viewers.

While the Bureau enjoys a positive relationship with the media it also adheres to the principle that "freedom of the press" must carry with it a degree of accountability and responsibility. This is particularly the case in any reporting involving children who have little or no say in what is said or written about them. The Bureau has taken up with several media outlets and the Australian Broadcasting Tribunal, the issue of ethical reporting. The way certain "human interest" stories involving children are sensationalised under the guise of social concern is something that concerns us and we have taken up, more than once, such matters as children being interviewed and identified when they are victims of abuse or caught up in circumstances over which they have no control.

There are a number of other fronts on which the Children's Interests Bureau is active and I will refer to these very briefly. The Bureau produces quality publications for parents and children; these include a guide to the law in South Australia; guidelines on handling access in the wake of parental separation; babysitting guidelines and practical information to children whose parents have separated.

Co-operative academic research with university and professional colleagues has resulted in publications on family law, doctors' knowledge of child abuse recognition, professional liaison in child sexual abuse management, to name a few. A major policy document on female circumcision has been accepted by all State social welfare departments as the basis for a uniform policy. It is hoped that our latest policy paper on the management of paediatric A.I.D.S. will likewise provide the basis for a national policy.

To conclude this brief description of the work we are doing in South Australia, I would like to emphasise how important national and international links with other groups acting for children have been. Although we represent different models of advocacy and have by design or circumstances taken a particular focus, we all share that fundamental commitment to seek a better and fairer deal for children. Occasions such as this cannot be underestimated as an ideal and unique opportunity to learn how others are working to achieve this common goal. But we cannot afford to get complacement : already we are witnessing a backtracking on important social reforms in child protection because they were not legally prescribed. Children's rights must not be held to ransom by political vagaries or be placed in jeopardy by the ill-informed but vociferous claims of those who see the "parents patriae" responsibility of the State as an erosion of family autonomy.

Appendix I

Statistics 1/7/86 - 30/6/87
Categories of Contacts

Contacts	Jly.	Aug.	Sep	Oc.	Nov.	Dec.	Jan.	Fb.	Mar.	Apr.	May	Jn
Child Welfare	10	17	12	2	8	7	7	6	7	5	11	10
Child Welfare Law	13	-	3	7	5	3	2	5	6	8	6	11
D.C.W. (Fostering complaints)	2	5	2	9	6	4	9	5	11	9	14	2
Ethics/rights	-	2	-	5	1	_	5	4	2	5	4	-
Talks/meeting	5	1	7	4	4	-	1	9	5	4	4	5
Media contact	5	6	1	3	3	4	5	6	7	5	3	2
Family Law	6	5	2	9	10	6	6	6	7	4	11	14
General	14	28	25	20	22	14	13	34	45	28	35	35
Requests for publications ("When can I? -and "Access"	5	9	6	22	7	12	21	14	24	12	16	8
Complaints				1								
Total	60	72	58	82	66	50	69	89	114	80	104	87

Grand total for year - 931
July 1985 - June 1986 - 599
July 1986 - June 1987 - 931

PILOT PROJECT OF AN OMBUDSMAN FOR CHILDREN AND YOUTH IN JERUSALEM

Menachem Horovitz

The institution of an Ombudsman for children and youth has two main roots.

1. Discussion of children's rights has developed as a "fad or fashion phenomena" or perhaps hopefully as a "social movement" like battles for rights of ethnic minorities or women's rights.

2. Secondly, it might be part of what one investigator (Hill) [1] [2], called Ombudsmania in many areas of life from hospitals to prisons, from the army to newspapers and universities. Ombudsmen are probably the result of a process of democratization ...

Bureaucracies are considered to be 1) inaccessible, 2) inefficient, 3) inhumane (as a former civil servant I have to add not always).

Ombudsmen are supposed :

1. To right individual wrongs;
2. To humanize administrative relationships;
3. To bring about administrative reform;
4. To serve as watchdog against abuse;
5. To suggest changes in legislation.

In Israel, the first and only Ombudsman for children and youth was appointed in the Summer of 1986 by the Mayor of Jerusalem, within a Public Council for Children, financed by the Van Leer Foundation. The appointment was considered within the framework of an experiment and for an exploratory period of about a year. The questions to be asked :

a. the viability and the need for an Ombudsman
b. the parameters of his activities
c. the need for legal power
d. guidelines for possible legislation.

The advantages of a "free-lance" Ombudsman for the experimental period are considerable :

a. He can investigate and deal with all complaints without any constraints.
b. He can learn by his own experience through the complaints reaching him, the problem areas of children and youth rights and define realistic proposals for change in policies and legislation.

There are of course also disadvantages caused by lack of legal status. Cooperation is to a large extent voluntary. "Sex appeal" of the institution does not always work. Bureaucratic structures do not like outside intervention and prefer of course to investigate complaints about them by themselves if they can help it and rationalize why this should be so.

My legal status was very rarely questioned but I knew that I had no power to visit for example children's institutions without prior consent or ask to read children's files of public or private agencies. I found much cooperation at the top of bureaucracies, Ministers and Directors-General, and with workers in the field, who saw me as an ally to bring about change. Resistance came, if at all, by middle management, for example, supervisors in the educational and child welfare systems. They consider themselves as mini-Ombudsmen and see the intervention of the Ombudsman as a failure in their own function.

I received within 15 months about 200 complaints from all over Israel, 60 % from Jerusalem, I don't know what the complaints reaching me represent of the universe of complaints. I cannot relate to numbers as they are a function of publicity. The more publicity - the more complaints. Shall we encourage complaints as a matter of public policy ? Shall we invite people to complain by informing them that we are at their service ?

These are the options :

1. To do nothing, "eat yourself" and perhaps develop psychosomatic symptoms.
2. Revolt against society who has given you a bad deal, by delinquency, violence and vandalism. Many cases of vandalism can be explained by concrete complaints against institutions, schools, etc.
3. Use of formal channels within organizations, supervisors, directors, complaint boards, institutions visitors' boards, local authorities, government agencies, ombudsmen, etc.
4. Organizing petitions and demonstrations, civic organizations
5. Mass communication : Radio and T.V. programmes, newspapers
6. Appeal to Members of Parliament
7. Use of informal channels based on "connections" family or ethnic based, religious groups or professional organizations. Use of "pull" or "protekzia" in Israel.

The story of a young woman immigrant to Israel from America : She said, "I have never heard about "protekzia". Could you explain to me what it is and how I could get some".

The Mayor of Tel-Aviv : "In South Tel-Aviv they pick up chairs, in North Tel-Aviv they pick up the telephone". The way from "pull" or "protekzia" to illegal means to obtain redress of complaints, like bribe or illegal favors is often a short one.

What people want : To set right what is wrong, relief from wrong or injury (not always justice, but to get what they want - not always compensation, but often satisfaction and an apology).

So far as known to me, there has been no research made as to what channels of complaints are used by what people for what complaints, under what circumstances.

Philosophy

I have not dealt yet with the question why you need an Ombudsman for children and what his basic concepts are :

a. We have to give high priority to children's and youth rights and their protection because they usually cannot protect their own rights. They have no part in political processes on ethnic, religious, neighbourhood or professional base. They cannot always understand decision-making by all kinds of institutions and organizations. They are powerless, they are not a lobby and have no way to influence decision-making.

b. When interests of grown-ups and children and youth clash, they tend to be the losers.

We think about children as objects of our care and protection and not as individuals who have rights (say the right to privacy). They have "the right to be different" as Kittrie called his book about deviance and enforced therapy [3].
Frank Musgrove said : "Children are more grown-up than we think".
It is the right of parents to bring up their children as they deem fit, as long as they observe the laws of the land.

The problem : When does the State interfere ? The rights of the family to autonomy and privacy must be respected. Is the State entitled to follow-up parents'bringing up their children. Can a social worker predict potential child abuse and protect himself by early intervention from possible judicial inquiry, if after all something goes wrong. "Be on the safe side". "When in doubt, act and don't wait".

Are we allowed to judge according to our own moral standards (example : sexual behaviour of adolescent girls). Most legal codes, certainly in Israel, leave much to the interpretation of a situation and judgement to those appointed to start proceedings and apply the law : police, social workers, probation officers and judges.

Areas of Intervention

A. Violations of existing laws, ordinances, administrative orders.

Examples : Publication in newspapers of pictures and other identifying details of children involved in court proceedings or their parents in criminal proceedings, or accused of depraved behaviour (children of battered women, 6 year old child witness to the murder of his mother, a prostitute), search on the body of children suspected of shoplifting, assault on youngsters by policemen during interrogation, expulsion from school, witholding matriculation results, fraud of children in lotteries, child labour, sexual abuse.

B. Complaints regarding policies :

Examples : Policies as regard abandonment of retarded children in hospital after birth, lack of supervision of foster families and children's institutions, payment of fees for special services in school.

C. Appeals and proposals of children to grant them more rights.

Examples : Why can't a boy of 13 years have his own bank account? He is after his confirmation and has criminal responsibility in Israel and many other countries. Why can't a girl of 16 decide to have an abortion without her parents' consent? It is her body. Why are children not consulted when literary prizes for children's books are awarded ?

D. Complaints about behaviour of grown-ups towards children.

Examples : Interference of teachers in a student's private life. Religious boy going out with a non-religious girl. Teacher offering anti-contraceptive advice to a girl in her class on the basis of a rumor that she had sexual relations.

E. Ombudsman as a mediator between children (adolescents) and their parents, public and private agencies, employers.

F. Ombudsman as a "pusher" of agencies to provide more effective, just and quick services.

Example : Mother with an acute problem with her 9 year old son in danger of being a victum if her violence was put on a 2 month waiting list by a child guidance clinic without prior evaluation of the problem.

Listening and giving advice, not really an Ombudsman function, but people appeal to him, and when necessary are referred to other agencies.

Ombudsman initiatives

1. Sale of alcoholic drinks to youngsters aged 18 in pubs in violation of the law.
2. Participation of young children in lotteries.
3. Provision of legal aid to children detained by the police on criminal charges. 95 % of all children in Israel's juvenile courts are not represented by a lawyer. 90 % admit the offense.

It can be argued that in some of these activities the Ombudsman has a protective, patronizing, paternalistic role, blotting his function as defender of children's rights.

The Ombudsman is not concerned at this stage, except in special cases, with consumer affairs and planning issues.

The introduction of an Ombudsman should not be a symbolic scheme to give youngsters and the public a feeling that something is being done. His dealings with complaints should be pragmatic and intuitive, this might include flexibility and improvisation. The criticism of course from a legal point of view that this is at the expense of strict observation of rules, regulations and procedures. This can also become a boomerang. Roscoe Pound observed "altering the laws in the books achieves nothing if the law in action is not altered" [4].
When children and youth complain or their problems are the issue, the time factor for dealing with them is all important in my experience. I try to show an "anti-bureaucratic face", receive complaints by phone too, give interim information about how I intend to deal with them, and be accessible as much as possible.

Some argue that rights without services are meaningless. Paulsen (in remarks about child abuse) : "No law can be better than its implementation. No implementation can be better than resources permit" [5]. I would argue that proclamation and legislation of children's rights can be a driving force to establish better services and secure resources.

In Israel, the problem is not so much the legislation but its enforcement. It may be, in my country and in others that if we would enforce all existing laws all the time, life would become insufferable. The solution to population explosion in legislation : For each new law passed by the legislator to abolish an old one.

Finally the social philosophy of a country towards its children will be decisive on the complaints an Ombudsman receives. Is his role a form of limited intervention or a cure of all injustice in society towards children, I don't know the answer, perhaps the future of this institution will show us the direction.

BEST COPY AVAILABLE

Recently, a bill has been introduced in the Israel Knesset (Parliament) to give the Ombudsman for children and youth, a legal basis.

Notes

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3. Kittrie, N.N., (1971) The Right to be Different (Penguin Books, New York).

4. Freeman, M.D.A., (1983) The Rights and the Wrongs of Children, p.33 (Francis Pinter, London and Dover, N.H.) (quotation of Roscoe Pound).

5. Paulsen, M., (1966), Children 13, p. 48.

THE YOUTH PROTECTION COMMITTEE : OMBUDSMAN FOR CHILDREN IN PROBLEM SITUATIONS IN QUEBEC : ORIGIN AND PRACTICE

Jean-François Boulais

Introduction

Youth protection in Western countries has become a state responsibility. Most of these countries have laws that allow or oblige their citizens to denounce situations of child abuse, child neglect or abandonment of minors. Many Western countries also have a separate law code to deal with juvenile delinquents. The rules provide for the set-up of specialized bodies or institutions : juvenile courts, accommodation or relief centres, and children's aid organizations such as the youth protection committees in Belgium and Quebec or the children's aid societies. These organizations have extensive powers and responsibilities. The impact of their intervention in the relation between parents and children, which originates from child's inalienable right for protection, is so strong that the U.S.A., as well as other coutries, are now witnessing the emergence of parental rights defence groups to stand up against the public youth protection services...

Two acts on youth protection provide the context for the functioning of the youth protection committee of Quebec. These two acts, along with the committee's functioning, are what we would now like to discuss in further detail.

Some ten years ago, the Province of Quebec explicitly authorised an organization to act as an ombudsman for those children and adolescents whose interests might be damaged, by the enforcement of two particular acts : first of all "la Loi sur la protection de la jeunesse" (the youth protection act) and secondly "la Loi sur les jeunes contrevenants" (the juvenile offenders act). The sole and primary function of the youth protection committee, which resides under the authority of the Ministry of Justice, is to see that the rights of minors are respected in the course of the enforcement of these two acts [1].

Two preliminary remarks should be made. One should first of all bear in mind that Canada is a federal state, which means that the legislative power in matters of youth problems is split up between two different levels of government. Criminal law provisions for minors, for instance, is a federal matter, while the individual states, among which the Province of Quebec [2] are respon-

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sible for the administration of justice -which includes control over the police department, the juvenile courts, youth protection policy, and the departments of health and education.

Secondly, it should be noted that during the 1960-1970 period the majority of the provinces of Canada all set up their own ombudsman or mediator. In the case of Quebec, this institution was called the Citizens' Defender. It has existed since 1938 and its main function is to safeguard the harmonious relation between the State and its citizens. It can conduct inquiries and formulate recommandations whenever a citizen is thought to have suffered injustice in the course of the state's fulfilment of one of its administrative tasks. A similar institution on the federal level does still not exist.

Surely, there are several examples of federal institutions that resemble the ombudsman. There is, for instance, an ombudsman for minor offence cases, there is the private life Commissioner, the official languages Commissioner, and the Canada Commission for personal rights.

But there is no ombudsman or mediator which has retained the original meaning that was given to the institution in the countries where it was first set up.

As we all know, the role of an ombudsman bears directly upon the relation between public institutions and citizens. This means that when a citizen applies to a non-public institution [3.] the competence of the Citizens' Defender is limited. The youth protection institutions in Quebec, although extensively and in some cases even exclusively financed by the State, are judicially independent of the Government or its Ministries [4.] Yet, in those provinces with an Anglo-Saxon judicial tradition, the concept of state dependence, which is a basic element in the jurisdiction of the Citizens' Defender in Quebec, has been interpreted in a more liberal way. The ombudsmen or mediators in Ontario and Saskatchewan for instance are competent to settle youth protection matters, which is not the case in Quebec.

Quebec has opted for the creation of a specialized institution that functions as an ombudsman, rather than for an extension of the Citizens' Defender's competence. Moreover, taking into account its legislative competence with regard to the administration of justice and youth protection services, the province of Quebec has bestowed jurisdiction over all minors in problem situations upon the youth protection Committee, regardless of the legislative source of the measures to which these minors are subject.
This paper consists of two parts. The first part is about the origin of the

youth protection Committee. We will briefly mention the emergence of the "Charte des droits de l'enfant en difficulté" (the Charter of the rights of the child in difficulty) and "la reconnaissance des droits des mineurs délinquants" (the recognition of the rights of juvenile delinquents). In the second part, we will discuss some practical aspects of defending the rights of minors, which means that we will survey the main functions of the institution and refer to some of its official reports.

I. The origin of the youth protection Committee

The youth protection Committee is not the outcome of a well-defined political will to set up an ombudsman for children in difficulty. It came into existence as a somewhat privileged instrument for grounding and animating a more fundamental reform in our youth protection system.

In fact, the Committee arose out of the convergence of basically two factors, namely the will to promote a new psychosocial approach to children who had been maltreated, and secondly the will to see to it that, in practice, the rights that had been granted to children were not violated.

1. A new psychosocial approach to maltreated children

Set up in the early 70s under the Justice Department by a government that wanted to tackle the problem of mistreatment of children [5] effectively, the Committee won widespread respect with the successful application -given its financial resources-of a new approach which had been developed in the U.S.A.. The main characteristic of this approach was the obligation to "report", i.e. to inform the youth protection services of any case of maltreatment of children. The overall success of this approach was brought about by the depenalisation of the cases, by the activation of a number of mechanisms for supplying help to families and by the coordination of social, medical and judicial services [6].

The 1979 general reform of our protection act, which endowed the institution with larger funds, was to make this approach permanent. Indeed, up until then the institution had been heavily understaffed and it lacked regional offices. The health and welfare institutions residing under another ministry, the Committee employed a mere thirty people, who had to run the two offices in Montreal and Quebec.

The reform has entailed the set-up of a youth protection service in every welfare centre throughout the ten administrative regions of the province. In doing so, the government pursued a dual purpose : on the one hand they aimed at multiplying the institution's funds by ten and on the other they wanted to introduce a generalized model of social intervention, applicable in all children-in-difficulty situations. Besides concern for maltreated children, the act provides for a similar approach to children who have been abandoned, neglected, or who have run away from home, and in all cases of juvenile delinquency.

For fear that such an increase of responsibility and resources might endanger the realization of the reform, the government decided to entrust the Committee with the surveillance on the application of the law.

Perhaps it would have been preferable to delegate the control over the protection services directly to the youth protection Committee. For historical reasons, however, this solution was discarded.

Instead, it was decided to keep the Committee under the Justice Department, while the youth protection network came under the Ministry of health and Social Services, which was already assuming the main part of the social services de première ligne [7]. So the Committee was now in charge of the surveillance on the application law, and the promotion of the above-mentioned method of intervention, which had lain at the very basis of its existence. Moreover, the Committee had to watch over the respect of the rights of minors which had been recognized by the law.

2. The recognition of the rights of minors

Another determinant in the reform of our protection system was the recognition of the rights of minors, both for juvenile delinquents and for children who had to be protected. This factor has played a very important role in the orientation of the youth protection Committee. Indeed, the watching over the respect of the rights of children was going to be the main reason for the Committee's existence in the years to come.

A) THE RECOGNITION OF CHILDREN'S RIGHTS

During the 1960-1970 period, a growing number of intermediairies questioned the rule which underlay the decisions with respect to children in need of protection and which expressed what people then called "the search for what is best for the child". Critics labelled this principle as the legal validation of arbitrariness. And indeed, one must admit that the appreciation of what was best for the child involved a great deal of subjectivity.[8]

In a way the reformers were looking for more objective criteria that would give the decisions taken in the interest of the children something to hold on : the idea was to create a distance between the individual and collective perception of the child's interest. In other words, what does society as a whole think to be the highest interest of the children ?

What standards had to be laid down, and most of all, who was to lay them down ? The debate that finally led to the adoption of the basic principles of social intervention took place in the National Parliament. Afterwards, these principles were enacted in order to stress their importance.

It was therefore only natural to stipulate in a peremptory way that every decision regarding children had to be inspired by the respect of their rights. This was also the quintessence of article 3 of our protection act. Besides, the articles 4 up to 11 dealt with the same principles as those formulated by the Legislator [9]. The essential thing is that children, regardless of their age, must not be overlooked in those decisions that affect them.

These rights, which are completely new in their terminology, are distinct from the usual references to the fundamental rights, put down in a charter. Some examples of such fundamental rights are the absence of discrimination, the right to live, the right to physical integrity, to natural food and to medical care, the right to an environment that allows children to develop, the right to free education, etc. It is clear that the rights that have been recognized by the law resemble these provisions to a considerable extent. The eighth article, for instance, stipulates that a child who is in the care of the authorities is entitled to adequate social and pedagogic assistance. The law also recognizes the right to legal representation by an independent body. Many of the rights that have been formally recognized under the youth protection act find their equivalents in international Conventions and Declarations [10]. It could therefore be said that these rights are a somewhat specified application of internationally recognized principles.

The recognition of the rights of the child has important consequences. Nevertheless, it would be a lie to pretend that all of these consequences were positive. The first consequence was that children were now given a voice. This voice was even heard inside the administrative system when new funds were

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allocated or when the existing funds were redistributed in order the improve coordination. The second consequence was that we had created doubts about certain professional practices and habits that up until then had been admitted. This met with fierce opposition, which became perceptible in the introduction of a time-consuming red-tape routine and an increasing number of internal checks. In some circles, it is said that the movement was at the basis of a certain demobilization of the staff. A third consequence was that professional practices were re-geared to each other and that the values that inspire re-educational activities were brought under permanent discussion. We cannot say that this too was a negative experience, on the contrary.

In the area of juvenile delinquency as well, Canada has adjusted its policies thoroughly.

B) JUDICIAL GUARANTEES FOR THE JUVENILE DELINQUENT

In a way splitting up the legislative competence in Canada made it historically impossible to combine all measures entailing the protection of minors in one single act. Penal law matters lay with the federal parliament, while juvenile delinquents were subject to a different legal system. Nevertheless, this distinction was more a theoretical than a practical one, as both legislative branches pursued the highest interest of the children.

Using the, mostly American, orientations of the 1960s as a model, Canada has thoroughly revised its penal law provisions for minors these last few years[11].

Since 1984 the "Loi sur les jeunes contrevenants"[12] (the juvenile offenders act) has incorporated the bulk of the legal provisions that apply to adults. Shown clearly by the following list :
- abolition of the Status Offences;
- the right to be represented by a lawyer at any stage of the legal procedure[13];
- the right of presumption of innocence and of provisional discharge in the course of the penal procedure;
- special protection against self-incrimination;
- harmonization of the maximum age of minors to appear before a juvenile court.

In spite of all this, a number of deviations from the penal system for adults have been maintained.

These are some of the most important ones :
- the perpetuation of a specialized law court;

- the absence of the right for minors to be judged by a jury or on the basis of a preliminary inquiry [14]
- a maximum penalty of 3 years for all offences;
- detention in a specialized centre for minors;
- the prohibition to detain an adolescent in a prison for adults.

Instead of being brought to court to answer the accusation with which he has been charged [15]. an adolescent who has been arrested may benefit from a set of substitute measures that have been laid down by the law. The adjudication of these so-called diversion measures is supervised by the public prosecutor, who first has to affirm that there is sufficient evidence to prove the adolescent guilty.

3. Conclusion : an ombudsman for children who are in the care of the State

Since 1979, the Committee has the power to guard the respect of the rights of all minors in difficulty. In 1984 this authority was extended to delinquent minors.

In the course of its initial 5-year term (1979-1984), the Committee profiled itself as a defender of the rights of the child and a protector of a new psychosocial approach to maltreated children. As the years went by it has become increasingly difficult to fulfil both these tasks properly at the same time. Some of our actions turned out to be contradictory. Did the Committee have to act as the expert authority in this special approach towards social intervention, or was its function rather one of the defender of the rights of the child ? A choice had to be made, and in 1984 the activities were oriented to what was felt to be the main reason of the Committee's existence, i.e. the defence of the rights of the child. Ever since, the Committee has trodden the same path.

We will now embark upon the practical side of this function.

II. The youth protection committee in practice

1. a general survey of its functions and problems

A) LINKAGE AND COMPOSITION

The organization I work for is a governmental organization. This linkage ensures its continuity as well as considerable resources and important powers.

The Committee has offices in every administrative region in Quebec. It is controlled by a board consisting of 14 members who have been elected by the Government but who are not in the civil service.

The chairman and vice-chairman of the board are the sole full-time members. Their term expires after five years. The choice of the other members is determined by their competence and their interest in young people. Additionally, the Committee has a permanent staff of 50 people, 30 of whom are professional experts in psychosocial, sociological and legal matters. These people are employed in the civil service.

B) FUNCTIONS AND POWERS

The Committee's task is to watch over the respect of the rights of children and adolescents who have been left in the care of the youth protection system.

The Committee has the right of initiative to conduct inquiries whenever the rights of a child or a group of children are thought to have been encroached on. It can also conduct these inquiries upon the request of another authority. During the inquiry, the Committee is entitled to convoke people and to demand the submission of relevant documents [16]. Subsequently the Committee may formulate recommendations to the persons in whose care the child is.

However, the Committee cannot impose measures aimed at changing a particular situation. Yet, if its recommendations are disregarded, it can bring the case before the juvenile court to obtain restitution.

In the fulfilment of its function, the Committee has access to all files that are relevant to the case of children who have been commended to the care of a public institution or who are subject to protective measures [17]. It has been legally entitled to act before any juvenile court. If the people in charge fail to provide legal protection for a child, the Committee can bring the case before the court in order to enforce this protection [18].

The organization's powers along with its bond with a ministry that is different from the one that controls the services **de première ligne**, are the two main guarantees for its large autonomy. That is why the social protection interveners and the local authorities often experience the Committee as a watchdog. It presents a permanent danger, in the sense that its interventions are nothing short of sanctions. This "fear" results from the fact that the Committee, thanks to its inquiries, helps uncover the deficiencies of the protection system. In fact, the Committee only seldom goes to court.

C) SOME SIGNIFICANT DATA

It should be clear that there is no organic relation between the youth protection Council and the youth protection Committee. They are two different bodies.

Cases of children whose security or development is in jeopardy must be reported to the youth protection Director of Quebec. He is the head of a service or an "administrative unit" which functions within a corporation of services, called a social service centre. Each of the 14 administrative regions in Quebec has its own youth protection Director.

On March 31, 1985, there were 1,629,719 minors (people under the age of 18) in Quebec. The average number of cases reported to the different Directors concerning children in need of protection stands at approximately 35,000. This means 2% of all children living in Quebec [19]. 55% of the cases reported is filtered out and evaluated by the youth protection Councils. The number of children who were declared in need of protection in December 1985 was 15,582, which is 1% of the child population of Quebec. These children were put in the care of the youth protection Councils. Little over 50% of these children received help without being removed from their families. Moreover, in the same year 1985 another 22,000 adolescents were looked after in accordance with the principles of the juvenile offenders act.

The Committee for its part annually receives nearly 10,000 applications, from a variety of people. Most of these applications ask nothing more than a simple reference. In other cases, the Committee proceeds to a minimal mediational or reconciliatory intervention. Full inquiries have only taken place in some 100 cases.

D) A SURVEY OF RECURRENT PROBLEMS

Listed below is a survey of recurrent problems, which we try to solve in the first few days following the reception of a complaint. I would like to stress that our organization has 11 regional offices, which facilitate the access to our service.

- the youth protection Council dismissed a complaint, which -in the opinion of the people reporting to us- presents a genuine danger for the safety and the development of the child involved. Our intervention entails a second inquiry.

- Commending the child to the care of the State would be inadequate and would not ward off the danger. Our intervention may result in a quick reconsideration of the case.

- an adolescent who has been removed from his family complains about his being unable to keep in touch with them, as a result of a decision taken by the authorities in charge of his protection. Our intervention may help re-establish contact.

- the parents of a child who has been commended to the youth protection Director feel to be badly informed about what is happening with their child. We can optimize communication between the parties concerned.

Applications are made by all sorts of people : the adolescent himself, the parents, the neighbours, professionals, judges, doctors or lawyers.

I would now like to bring up a different kind of problem, with a varying occurance, depending on the region. I am talking about more fundamental problems which we encountered in the enforcement of the law. We have been confronted with them in the course of one of our ordinary inquiries or while carrying out more elaborate studies on a specific question.

- an inquiry may reveal that certain interveners have an insufficient or inadequate understanding of the professional basis in matters of youth protection. The ensuing lack, or even the complete absence of adequate services compromizes the development and the safety of the children.

- an inquiry may bring to light a certain degree of negligence or reticence on the part of the hospitals' medical staff to report situations of child abuse or child neglect.

- we regularly see that the people employed by the youth protection Councils are reluctant to cooperate with community organizations to evaluate and remedy the situations reported.

- we sometimes see that different departments within one service, or different services among themselves are at loggerheads with each other, which makes the slow-moving wheels of bureaucracy move even more slowly.

- several studies have revealed that the shortage of human resources or the ineffective organization of the resources available leaves countless children waiting for their situations to be evaluated or to be consigned to the care of the State.

- we found shortcomings in the services rendered to the native population of Quebec and to the English-speaking people who live outside Montreal.

- The accommodation of many adolescents in foster families or special institutions is disturbed by the lack of funds, unwieldy red-tape routine and bad coordination of activities.

- we found that institutional resources were used to help adolescents, sometimes younger than 14, who were in need of protection. We also noted cases of physical violence, victimizing adolescents who had been placed in relief centres.

- the limits sometimes imposed upon the adolescent's right to communicate confidentially in a relief centre are unacceptable.

E) ACTIONS

The Committee's actions can be subsumed under three categories. We formulate individual or collective recommandations to the authorities concerned. We conduct inquiries or carry out more elaborate studies on specific problems, such as the social practice in cases of sexual abuse, the relations (if any) between the constituents of the socio-sanitary service, the living conditions of adolescents who have been temporarily placed in anticipation of their law suit, the delays of the cases judged in the juvenile court,... These inquiries alone may induce the people responsible to change certain aspects of their approach. Finally, we invite people to go and sit round the table to discuss existing policies or to design new ones.

We are frequently requested to take part in regional or national working groups on well-defined subjects.

Our interventions are published periodically. First of all, we give the institutions concerned our recommendations very punctually. It sometimes happens that our recommendations bear directly upon the Minister of Health and Social Services, the Justice Minister or the Minister of Education. The organization finances the yearly publication of its recommendations on its own. We also regularly come on radio and television or appear in magazines and newspapers. We restrict court interventions to those cases where principles are at stake as a result of a legal precedent. This viewpoint has obliged us to act at some 100 occasions over the past eight years.

2. A special kind of problem : custodial accommodation of adolescents

One of the most frequently recurring and difficult problems for an organization like ours is that of custodial accommodation of adolescents.

A custodial environment, in the Committee's opinion, is a place where the architectural constituents have been devised to accommodate an adolescent for a given period, regardless of the dynamic constituents of this environment (staff, programmes,...).

The Canadian legal system for minors provides that a minor cannot be put away in an institution designed for imprisonment. There are no exceptions to this rule in matters of protection [20] and only a few ones in matters of delinquency [21]. This priciple postulates the existence of a considerable number of institutions that can accommodate adolescents whose freedom has more or less been restricted.

Some 4,000 children or adolescents are annually looked after by the accommodation and relief centres. It is worth mentioning in this context that the services rendered by these institutions vary in "intensity". Quebec is able to ensure the accomodation of some 500 adolescents in a custodial environment. Apart from that, the institutions can also place children or adolescents in the care of so-called "open" institutions. The personnel of the institutions even assist the parents in guiding the adolescent. We have found that many minors, especially adolescents, are still accommodated in public institutions as a

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result of the youth protection act provisions : bad behaviour or running away from home are the most frequently produced reasons for resorting to an accommodation measure accepted by both the adolescent and his parents or ordered by the juvenile court.

This situation was publicly denounced during the 1970s and recommendations were formulated in order to put an end to these practices [22]. However, the legislative [23] and judicial [24] efforts aimed at lowering the number of accommodations in public institutions have been of little avail, at least as far as the principle itself is concerned. The same could be said about the attempts to limit the number of cases where adolescents, said to be in need of protection, are made subject to more or less custodial measures. Today, the debate has lost much of its intensity.

Yet it cannot be denied that over the past ten years this debate has profoundly changed the quality and the nature of public institutions for the accommodation of children. So the demand to abolish custodial measures for adolescents completely has yielded some result. The number of available places for custodial accommodation in public institutions has diminished substantially from 1,500 in 1976 to less than 500 in the beginning of the 1980s. At the same time there has been a development of alternative ways of accommodation in public institutions. The situation now appears to be quite stable.

Moreover, the increased participation of parents and other professionals constitutes a new kind of internal and external control mechanism. The Committee has quick access to all the parties involved in custodial accommodation. The Committee can therefore easily contact the adolescents themselves as well as the management of the institutions to settle any conflict that may have arisen. We should also add that the formation of the staff has now become an important preoccupation of the institutions. Government checks have increased, and last but not least, an extensive group of lawyers, specialized in the field of children in difficulty, was brought together and is now at the disposal of the adolescents. They can call on them freely and at any time.

These measures do not put an end to the fundamental discussion, but they do make the daily situation for children and adolescents more bearable.

In matters of delinquency, the federal act on juvenile offenders obliges the judge to state explicitly the custodial surroundings of the adolescent who is in the care of the State. However, this purely judicial principle is seldom put into practice. It is most regrettable that here as well the lack of adequate resources makes it impossible for people to look after adolescents in accordance with the court order. And as the application of the measure is of the jurisdiction of the administrative body, specialists in Quebec are now debating the question of the exact content of custodial surroundings or a so-called "open" surroundings. The youth protection Committee is represented in this discussion at all levels of the administrative body.

III. Some observations

What lessons can be drawn from all this ? To end this paper, I would like to make the following observations.

As to the general orientation of the youth protection network, and the professional practices in particular, the recognition of rights has given birth to a fairly broad social consensus on the fundamental values which have to be respected when intervening in the lives of children. The people of Quebec have gradually grown accustomed to the obligation of reporting cases of maltreatment of children and today nobody seriously considers to question the need or the impact of this obligation. We also see that people on all levels are looking for a means to get an ethic adopted that dovetails in with the view that children are the subject and not only the object of the legal system.

In this connection we would like to draw the attention to two recent decisions taken by the country's highest court. The first one recognized the inviolability of the child by opposing the sterilization of a mentally deficient girl for non-therapeutical reasons [28]. The other court decision recognized the priority of the psychological bond over the biological bond between children and the people who look after them. In taking this decision, the court made a reference to the relevant articles of our act concerning the rights of children.

This great step forward has enabled us to lay bare some of the more fundamental reasons for the existence of child abuse and child neglect.

The second observation I would like to make is on the role of our organization in society. Some people say that it should function as a spotlight on society.

The government has vested the power in us to carry out specific actions in the area of youth protection. But outside our territory as well, social manifestations of violence imposed on children should be denounced. We are gradually acquiring a place in public opinion which will allow us to reprehend less evident forms of violence, like for instance certain "misuses" of children in advertising, the child as a witness in a lawsuit, the child who is victimized by the doubtful reputation of its parents, the problems of immigrant children, etc...

Finally I would like to come back to a theme that has already been discussed, i.e. the Committee's place in the whole of the administrative body, to say a few words about the dangers that come with social action overrun by bureaucracy.

The situation of an autonomous institution that owes its existence to political will and that has been set up to highlight time and again the needs and rights of children, will always be precarious.

It is beyond doubt that the attachment of an organization like ours to the governmental structure makes it, in a way, the toy of the political will, which, in turn, is conditioned by its expounders' political weight. In this respect one could say that, comparatively speaking, the organization is void of any political weight, as children-in-difficulty themselves are void of any political weight.
A parliamentary commission recommended in 1982 that the organization's members should be appointed after consultation with the institutions responsible for the administration of the law [26]. In 1986 a bill was tabled to combine the youth protection Committee with the human rights Commission [27]. which fights any form of discrimination, into one organization.

We do not intend to judge the value of these proposals, nor to ascribe whatever hidden or secretive motives to those who formulated them. It is only natural that governmental organizations have to account for their pertinence and their administration every now and then. The Committee should not have strong feelings about this.

The simple fact that the State enacts a law creating an organization, assigns it a well-defined task and allocates a budget is a clear indication that society has adopted a set of new principles and that it is willing to put these principles into practice.

A prerequisite for the success of this operation is that the organization is given enough scope and sufficient autonomy to function properly and that it draws its strength from the quality of its management and from the social consensus, expressed in the act that established it. Its actions cannot replace those of any other organization that pursues the promotion of rights.

Notes

1. Loi sur la protection de la jeunesse (youth protection act), L.R.Q., chapter P-32.1. You will find the provisions that relate to the youth protection committee in the appendix at the end of this reference list.

2. Articles 91 and 92 of the Acte de l'Amerique du Nord Britannique.
The constitutional jurisdiction of the federal parliament on juvenile delin quency was recognized by the Supreme Court of Canada in the case of the state of British Colombia versus Smith, (1967) R.C.S. 702 ; 2 C.R.N.S. 277 ; 61 W. W.R. 236 ; (1969) 1 C.C.C. 244 ; 65 D.L.R. (2d) 82 (C.S.C.). The federal jurisdiction on judicial procedure was recognized in the case of the state of Quebec versus lechasseur, (1981) 2 R.C.S. 253.
The jurisdiction of the provinces in matters of youth protection has been recognized since 1938 in : Referral : Re-Adoption Act (Ontario), (1938) R.C.S. 398 ; (1938) 3 D.L.R. 497.

3. La loi sur le protecteur du citoyen (the Citizens' Defender act), L.R.Q., chapter p-32, cf. articles 13 and 15

4. la Loi sur la santé et les services sociaux (the health and social services act), L.R.Q., chapter S-5. The health centres, social services and placement centres are a corporate body of their own. Nevertheless, the composition of their boards of directors is stipulated by the law.

5. Loi concernant la protection des enfants soumis à des mauvais traitements (Act on the protection of maltreated children), L.Q. 1974, chapter 59. This act provided for the creation of an independent institution which would range under the Justice Department. The task of this institution was to identify and deal with situations involving maltreated children. The act obligated every citizen to report any situation of child neglect or physical or sexual child abuse.

6. The committee's newly adopted approach has been described in great detail in the institution's first report : Comité pour la protection de la jeunesse, Premier rapport, Quebec, Editeur officiel, 1977.

7. The juvenile courts exert jurisdiction in penal matters and in matters of protection and adoption. They are financed by the Justice Department of the province of Quebec.

8. Rapport du Comité d'étude sur la réadaptation des enfants et adolescents placés en centre d'accueil, Ministère des communications, (Quebec), 1975.

9. You will find the rights of children that have been recognized by the youth protection act in the appendix at the end of the text.

10. In this context, the international draft convention on the rights of the child, which is presently being studied by the human rights Commission of the U.N. Social and Economic Council, stipulates that "the child who has been separated from its parents is entitled -save exceptional circumstances to have personal relations and direct and regular contacts with its parents". Could this not be seen as a reference to article 9 of our act, which subjects the interruption of the contact of the child with its family to a preliminary court decision ?

    Could the fourth article of our act not be considered as the counterpart for article no. 2 of the 1948 Second Declaration of the Rights of the Child, which indicates that "the child must be helped without harming the integrity of its family". This right is specified in the 1959 Declaration. In accordance with this text, a child who has to be removed from its parents is entitled to grow up in a tender atmosphere that guarantees moral and material security. This text is being revised in the article no. 10 of the abovementioned draft Convention. This draft Convention suggests the foster family and adoption as a recourse for children who have no family.

    Finally, like our article no. 6, the draft Convention mentions that the child who has the power of discernment has the right to express his opinion on any question, especially on those questions that concern him. His wishes should be taken into account.

11. cf.
    Commission Royale d'enquête sur l'administration de la justice en matière criminelle et pénale au Quebec. La société face au crime, Quebec (Canada), Editeur officiel du Quebec, Volume 4, tome 1, 1968.
    This work has the merit of surveying the principal criticism to which the act has been exposed in Quebec. Besides this report, there are a number of other, more virulent documents.

12. Loi sur les jeunes contrevenants (the juvenile offenders act), 1982, chapter 110 ; came into effect in 1984.

13. Loi sur l'aide juridique (the legal aid act), L.R.Q. chapter A-14, (1972). The majority of the adolescents (the 12- to 18-year-old) who have to appear before the juvenile court are represented by lawyers, whose fees are paid by the State.

14. This divergence was heavily contested on the basis of the Canadian Charter of rights and liberties, which incorporates the right of equality. However, all attempts to change this situation were in vain. Cf. R. v. KG. (1987) 73 A.R. 376 (Cour d'appel de la province d'Ontario); R. v. R.L. (1986) 52 C.R. (3d) (Cour d'appel de la province d'Ontario).

15. Décret concernant les measures de rechange prévues par la Loi sur les jeunes contrevenants (decree on the substitute measures laid down by the juvenile offenders act), no. 788-84 April 4, 1984, 116 G.O. II, 1825, (Quebec).

16. Loi sur la protection de la jeunesse (the youth protection act), articles 23 ss.

17. Care centre, welfare centre, accommodation, re-adaptation and relief centre.

18. Id. articles 74.2 and 91

19. This percentage is not a precise reflection of reality, as some situations are reported more than once.

20. Loi sur la protection de la jeunesse (youth protection act), article 11

21. Loi sur les jeunes contrevenants (the juvenile offenders act), articles 7(3) and 15. The number of delinquent minors who are being detained in prisons for adults is in the region of 10 on a population of 6 million people.

22. The youth protection act originally stipulated that an adolescent who was subject to legal protection could not be accommodated in a custodial environment without an explicit court order. A few months after the courts had demanded the respect of the legislative provisions in this matter, an amendment to the act, aimed at abolishing this guarantee, was introduced in parliament. In spite of fierce opposition of the youth protection Committee, the amendment was passed.

23. Protection de la jeunesse (youth protection) - 193 (1986) R.J.Q. 736 (Cour supérieure). This court decision stipulated that it went counter to the provisions laid down in the Canadian Charter of rights and liberties to deprive an adolescent of her residual liberty without a legislative or judicial authorization. Unfortunately, this principle is rarely observed in practice.

24. Eve v. Madame E., Cour Suprême du Canada, October 23, 1986, (J.E. 86-1051), 1986 2 R.C.S. 388.

25. Vigneault-Fines v. Chardon, Cour Suprême du Canada, September 17, 1986, (J.E. 87-1002). In its decision the court explicitly referred to the articles 3 and 4 of the youth protection act.

26. In 1982 a parliamentary commission proposed a modification of the mode of appointment for the members of the youth protection Committee. The idea was to obtain a better representation of the organizations in charge of the protection of minors. The proposal was rejected by the government. Source : Rapport de la Commission parlementaire spéciale sur la protection de la jeunesse, Quebec, Editeur officielle, 1984.

27. In the spring of 1986 a bill was introduced to bring the youth protection Committee and the human rights Commission together in one organization. In the opinion of its authors, the bill had been designed to gain a clear view of the sector and to increase the effectiveness of the actions. It should be noted that this Commission is responsible for the promotion of the principles contained in the Charter of rights and liberties. Others said that the measure would have put constraints on the organization's functioning. The bill was not passed.

    Source : Loi sur la Commission des droits de la personne et sur le Comité de la protection de la jeunesse, 1986, P.L. 110.

DO THE JUVENILE COURTS IN FRANCE HAVE A MEDIATORIAL FUNCTION ?

Jean-Pierre Rosenczveig

France does not have a mediator who has been specifically appointed to deal with the problems of minors under 18 years of age. Certainly, the "Médiateur de la République" (Mediator of the Republic), set up in the mid 70s, can intervene in situations where children are concerned, but in reality, he will defend the interests of the parents who are at odds with the authorities. This is for instance the case when the machinery of government refuses to give its authorization to a young couple who would like to start a procedure for national or transnational adoption. If the couple feels this decision unjust, it can convey the case over the Mediator. It should be noted that the parents cannot address the Mediator directly themselves ; they will have to find a member of parliament first who is willing to submit their case.

Nevertheless, and without ignoring the relative originality of this analysis, one could say that the juvenile courts in France, within the bounderies of their districts, function as mediators for problems involving children.

However, few magistrates reckon this their vocation. In their defence, it could be argued that being a children's mediator was not one of their functions at the time when the juvenile courts were set up in 1945. Their development towards what I would describe as "ombudsmanlike" actions is the result of the successive modifications of their competence and of the progress in their practices and the perception of social reality.

On a more general level, I would say that -compared with the Anglo-Saxon tradition- the ideas on mediation are still budding in France.

This paper will try to outline in what respect and to what extent the juvenile courts can act as mediators. There is a growing number of initiatives which instinctively go in the same direction ; I will come back to this at the end of my paper. It is my personal opinion that in the long run the decisive step of establishing a specialized ombudsman for children will have to be taken. But to attain this ultimate goal, we will first have to create an appropriate atmosphere and tear down a number of psychological barriers.

Before dealing with the judicial functioning, I would like to say a few words about the setting.

As in most Western countries, the need for a specific organ to protect children did not make itself felt until the end of the 19th century. In those days, people did not talk about the rights of children like they do now. Their main concern was to protect children from physical or moral maltreatment and from exploitation inside and outside their families, a phenomenon which occurred quite frequently. This philosophy corresponds with the present-day protective labour law provisions and it explains why an 1898 act considered the minority of children-victims as an aggravating circumstance for those who had mistreated or neglected them.

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A children's court was established in 1912 to judge juvenile delinquents. Although this institutional reform certainly had its significance, we have to admit that it was hardly anything more than a name : in reality it was the traditional judicial formation that was baptized juvenile court for cases regarding delinquent minors. The real innovation was that from now on, judges were no longer confined to facts ; they could also make allowances for the person of the minor in the sense that they could assign an educator to help him. This "representative of limited freedom of movement" had to follow the evolution of the minor and was supposed to promote it. Apart from the fact that for the same offence the penalty for adults was twice as long as for delinquent minors, this change announced a new policy aimed at reintegrating young people. The next important step was taken in 1945, with the creation of a specialized jurisdiction, composed of magistrates who had been appointed to the position of magistrates of the juvenile courts. Their preoccupation remained the delinquent minor, but from now on money was made available for a real intervention in the child's private life or direct environment. Inside the Ministry of Justice, a new "sub-department" was set up (Direction de l'Education surveillée); educational structures were created and became more and more numerous, diversified and sophisticated.

But the 1945 reform was above all ideological. When France was liberated, the educational objective was confirmed and brought to the foreground of attention : it was laid down in the law that judges could not inflict a penalty upon delinquent minors unless no so-called educational alternative was available.

The most important phase for this paper is situated in 1958, when the magistrates of the juvenile courts were charged with looking after young people in danger, even though they had not committed any offence. The idea behind it was to prevent minors with domestic or other problems from starting a criminal career. This new competence, combined with the need to take into account the viewpoint of the child, was the initial setting for the development of mediatorial intervention inside or outside the family.

But before embarking on this, we should mention that there are some 250 magistrates in juvenile courts in France. There is at least one juvenile court in every one of the 97 departments. Finally, it is worth noting that when the judge is absent -at night or during the weekends- he is replaced by the public prosecutor, a magistrate who then has the same power of intervention and whose task it is to guard the respect of the law. This unusual exception in the judicial organization of France -we will come across others- springs from the concern over the protection of the interests of children, or as we would call it today, the protection of the rights of children.

The magistrate of a juvenile court : a magistrate for the children.

Judge of delinquent minors, the magistrate of a juvenile court has also become a judge for the defence of the rights of children. This evolution was facilitated by a number of factors.

The first novelty was that besides the public prosecutor, the delegates of the social services or either of the parents, or children themselves could bring a case before the juvenile court. This provision is very well understandable, as most situations present a genuine danger for the children involved and must therefore not be shelved. That is why children should be able to take control of their own protection. This exception to the general rule that the French minor is not capable of acting, unless he is assisted or represented, is in this case more than justified.

Furthermore we see that judges, when they learn about situations that give reason for concern, are authorized to bring a case before their court. Once again, this is an exception to the prevailing judicial principles. The judges frequently use this power to disguise an action which a child does not always dare to take for fear of its parents.

Moreover, we should point out that a child can ask to be assisted by a lawyer. It is usually the judge who decides whether or not it is necessary to advise the minor of this possibility. Nevertheless, if a judge is explicitly asked to do so, he has to assign a lawyer and address the president of the Bar to designate one who will defend the interests of the child. The minor is entitled to lodge an appeal for any decision that regards him, and from the age of 16 onwards, it is obligatory for the judge to notify him of the court's decision.

These are the principles that have been laid down in the law, introducing quite a number of innovations, compared with traditional judicial procedure.

But do they actually work in reality ?

These legislative provisions encounter a great deal of scepticism. Young people do not know the law. Why would they know it, when so many adults are ignorant of it ? Especially in less privileged areas, there is hardly any tendency at all to make an appeal to the authorities. Will a child go to see the judge all by itself ? Of course not, it will be scared. And besides, at what age can a child invoke these rights ? It is hard to imagine a very young child going to court completely on its initiative.

These questions obviously hide the adult's distrust of the judicial system as well as of children : what credence can be attached to the word of a child ? What has got into the legislator to grant children the right to complain and to demand?

Yet from my 7 years of experience as a magistrate in the juvenile court of Versailles I can testify that there are children every day who "spontaneously" come to the court and ask to see a magistrate. Apart from these children, there are also those who write a letter or telephone. Admittedly, most of them are adolescents and pre-adolescents ; children under the age of 10 rarely come to see us, which after all is not too difficult to understand.

With "spontaneously" we mean that the child has eventually come to see us, regardless of the fact that adults (friends, priests, teachers) or more experienced and better informed schoolmates may have hinted at the existence of this possibility. Much depends of course on the image of the magistrate in his district or the image of the law in the environment concerned.

Anyhow, the fact is that a considerable number of minors do not hesitate to go

to court themselves and ask to be assisted in a conflict which generally opposes them to their families or their social environment.
However, the truth compels us to admit that there are few young people who really know how to call upon the services of a lawyer and that the magistrates themselves are not systematically inclined to inform them of this possibility.

We have reached a stage where the judicial system, whose initial task was to protect society from dangerous children, and which was later entrusted with the protection of children against their parents, is now approached by the children themselves in order to settle disputes.
The magistrates of the juvenile courts have been explicitly instructed to try and get the dialogue between the different members of the family going again and to avoid making systematic use of their power of decision. Their first objective is to bring people back together and this explains the mediatory nature of their function.
Which situations fall under the jurisdiction of a magistrate in juvenile court ?

First of all, and for the major part, he deals with domestic conflicts or malfunctions that victimize children to the point of endangering their health or upbringing. We think for instance about maltreated children, but one can easily imagine other equally delicate situations. Consider for instance the position of children whose parents are at loggerheads with each other or children who have difficulty in putting up with the presence of one of their parents' in-laws.
Furthermore, the magistrate of a juvenile court comes to the aid of children who would like to swap school for a job, but he also supports the efforts of those who are eager to finish their education. The magistrate of a juvenile court has the possibility and the obligation to adopt the point of view of the child. This is not all that easy, as the opinion of the child is only exceptionally expressed autonomously by the child itself or by a representative body.
Besides this type of problems, there are those which have rooted outside the family, although a close examination may sometimes reveal links with the home environment.
When the school governors have for instance expelled a child, with observance of the procedure stipulated and for reasons which more or less justify this action, the judge's principal task will be to mediate between the parties involved. The same is true when a child or its parents refuse to accept a scheme which the social services have worked out. These are typical examples of situations in which the magistrate's limited competence forces him to try and convince a particular institution to make allowances for the logic, the needs and interests of the child.
There are other and even clearer cases where the magistrate's function lies in the area of social mediation, thus making him a kind of family referee or a social conscience trying to awaken society to the need for greater concern for children and their legal position.
By way of an illustration, I would like to bring up a most unusual example of this viewpoint.

In the mid 70s, quite a number of pregnant young girls -usually from lower-class neighbourhoods but who were on good terms with their parents- wanted to terminate their pregnancy. The law provided that in order to terminate the pregnancy, the girl had to give her consent, which implied that she could not be forced to do so against her will. But additionally, the girl needed the approval of one of the persons entrusted with the parental authority. This created a problem when both parents had disappeared or could not be contacted and the exertion of parental authority had not been vested in a delegation or a guardian. Situations like these occur far more frequently than one would expect.

Some magistrates facing such problems refused to get involved, while others believed that an attitude like that went counter to the fourth article of the civil code, stipulating that a magistrate always finds a solution to the problem he is confronted with, save when he has to do someone an injustice. As we were usually approached by the departmental authorities for social action, if not by the girls themselves, we have found it legal to grant the social services the right to terminate the pregnancy. If we had not done so, the girls would have found themselves outside the scope of the law and therefore been obliged to turn to who knows what back-alley abortionist. The Parliament having omitted any reference to the absence of both parents or to the case of an open conflict between the girl and her parents, someone else had to cut the knot. It were the magistrates of the juvenile courts who assumed this responsibility.

It goes without saying that there have been cases where the parents refused to consent to the termination of the pregnancy for religious motives or even to punish the girl for what she had done. As the magistrate of a juvenile court, we considered the latter to be a clear case of abuse of power. We believe that the right to consent to the termination of a pregnancy, as a direct emanation from parental authority, was introduced to support girls during this particularly difficult period in their lives, rather than to punish them. Present-day parental authority is a function which has been assigned to parents in order to help their children. The ensuing control over the child is no longer an end as such, but a means.

I believe that the judiciary played a major mediatory part in the situations mentioned above. Moreover, the publicity given to its decisions made it more or less a sounding board for a particular social problem. It was now up to the public authorities to decide : either they would have to modify the law or let our strategy become common practice. It appears that they have opted for the latter solution.

The magistrate fulfils this same mediatory function -but on another level- when confronted with a minor who will not or simply cannot live with his parents or in an institution. Within the limits of his competence, governed by the principle that the magistrate should do everything possible to keep the minor in his or her "natural" environment, he can decide to give the minor the authorization to live where he considers it best for him.

It is not my intention to generalize or idealize this type of practice. I am fully aware that the cases before the courts are far from covering the whole area where mediation between young people and their environment is necessary. I

have in mind those situations where entire social groups are concerned. When children have been explicitly or implicitly demanding a recreation area for months or years on end, but their plea falls on deaf ears with the adults, there is not much the judiciary can do about it, except perhaps to try and interpellate the authorities in charge.
I readily admit that the magistrate of the juvenile court may be considered as a special kind of mediator in the sense that he holds the power to emprison or place children and that he is in actual fact an active referee who has the power to impose his decisions. Their actions often have an ombudsmanlike nature, although in my opinion not frequently enough.

Other mediatory actions have more or less consciously been developed over the past few years.

Our country has witnessed an increase in the more or less theoretically based practices to bridge the gap between the world of adults and the world of children, an effort which in fact boils down to setting greater store by the needs or the aspirations of children. This is at least my analysis of the development of interministerial programmes, put into effect in 1982 and which I feel were aimed at preventing the youths from committing legal offences, but also, and perhaps in the first place, at trying to start a dialogue with them, so as to find out what their preoccupations are and raise the material, institutional and political means to tackle conflict situations. When a youth-gang is constantly riding their bicycles in a working-class neighbourhood late in the evening, incidents cannot fail to occur. If the youths and the local residents do not engage in a dialogue, the slightest thing will spark off a circle of provocation and repression. Provided that the parties involved are willing to look for it, a satisfactory solution for both groups can surely be achieved. But first, a number of technical and material barriers will have to be lifted, and the best way to do so is by mobilizing the public authorities in charge.
I would also like to draw a parallel between on the one hand the overwhelming success of the youth town councils in our country (there are between 50 and 80 of them) and on the other the emergence of this mediatory youths-adults function. It is not only a matter of life-size civil education, but also of informing the adults of the needs, the aspirations -which are not always material-, and the rights of young people. This is not the right place to go into detail and to refer to concrete projects, but this project has everything to do with collective mediation, a permanent gateway between two worlds, which can avoid genuine conflicts between the youths and their environment more than anything else. Practice proves that the adults can only benefit from it : fewer open conflicts and interesting ideas for town life.

As you see, it would be an exaggeration to say that the mediatory function for children is neglected in France. Admittedly, there is not a specific authority which has been explicitly empowered to assume this task, but would it not be somewhat artificial to create an institution which has developed successfully abroad, without awaiting the social discussion and the emergence of the real need for it first ? Fact is that there are very few people in France who phrase the question of the youths in these terms.

But beyond all speeches of politicians, professionals and parents, which zero in on the "interest of the child", there is still this concern in our country to preserve the interests of the adults. Let me give you an example : it has recently been agreed that married wives can have their maiden name follow the family name of their husbands. There is nothing odd about this, except perhaps that it took so long before this decision was taken. From now on parents are allowed to give their children a double name. And although identity is an essential part of the personality, not a single member of parliament considered amending the bill so as to make it obligatory to ask the child's opinion first or to enable the child to take the necessary steps itself, if its parents fail to do so.

It is also my firm belief that before setting up a mediator for the youths we have to further develop this idea that children are not only human beings who need protection, but also subjects of law. They may be granted new rights, like for instance the right to be assisted before any institution (court, police department, school,...) that has power over them. But one thing is certain : people should start realize that throughout history, children have always had rights of their own. This is too often forgotten :

- both by the adults and by the children- and the tendency is to ignore that children under the age of 18 (the age of majority) have no rights whatsoever. This is of course not true. Children have rights in many areas, and we, the IDEF (Institut de l'Enfance et de la Famille), have published them in an objective survey [1].

Fortunately -or unfortunately, depending on the point of view- these rights go hand in hand with duties and responsibilities : ever since Napoleon, "the child, regardless of its age, has to honour and respect its parents" (today we would add "and vice versa"), but it also has to take up its civil and penal responsibilities. The paradox in the French situation is that a child is considered capable of discerning good from evil when it risks being punished or when it has to make good the damage caused to other people. Most curiously, this power of discernment is considered absent when the child has to make decisions regarding its own life. In other words, judges can inflict penalties upon children from the age of 7 or 8 onwards ; children have civil responsibility from the age of 3 or 4 ; but it was admitted only reluctantly that from the age of 13 onwards the child is to be consulted with when its parents decide to separate.

From all this we can conclude that there will not be a genuine ombudsman in France as long as we do not succeed in developing another concept of children as a social group.

Notes

1. La capacité juridique de l'enfant mineur en droit français (the legal capacity of minors in French law), IDEF, 1986.

TOWARDS A CHILDREN'S RIGHTS COMMISSIONER

René Bertaux

In February 1987, the M.D.E. (Mouvement de défense des droits de l'enfant) initiated a bill to be introduced in the Parliament of the French community, pro- posing the creation of a children's rights commissioner. The discussion of this bill in a parlementary commission was scheduled for October 1987, but due to the dissolution of the Chambers, this discussion will not take place before 1988.

I would now like to bring to the fore the reasons underlying our action, as well as our ideas on the functioning of this new organ for the promotion of the welfare of children.

The origin

This demand of the M.D.E. stems from the elaboration of the general principles of its programme, which basically commits the organization to furthering the recognition and application of the Declaration of the Rights of the Child, which was adopted unanimously by the General Assembly of the U.N.O. in 1959. Apart from the fact that we encouraged several members of parliament to support motions, we succeeded in convincing the Parliament of the French community to adopt, by unanimous vote, a Resolution in which it pledged itself to "guarding the respect of the rights of the child as they were laid down in the Declaration, and putting all available means to use in order to promote the rights of all children."
In addition, we have known about the existence of an ombudsman in Norway right from the early beginning in 1981.
This institution has profiled itself as very apt to enforce the respect of the rights of children and we therefore gave it pride of place in our "Mémorandum", published in 1984. This document, subtitled "For the child should be person", was compiled on the occasion of the 25th anniversary of the Declaration of the rights of the child, and it had the approval of over 60 children's defence organizations from all tendencies.
In 1986, the M.D.E. set up a task force responsible for the drafting of a document that outlined the goals and modalities of the M.D.E.'s demand. This document paved the way for the above-mentioned bill.

The reasons for a children's rights commissioner

Our motivation for a children's rights commissioner is very similar to the one that led to the creation of an ombudsman for children in Norway. For more details about the backgrounds of this institution, I refer to the paper of Ms.

M.G. Flekkoy, the presentday ombudsman for children in Oslo. Nevertheless, I believe, for a good understanding of our action it is useful to quote a key sentence from the discussion on the motives of the Norwegian initiative : "Children constitute an important, but at the same time a vulnerable social group. Good intentions, schemes and regulations alone are not enough to safeguard their interests and to fulfil their needs... Faced with well-organized groups and their influential spokesmen, children are often the losing party when important decisions are made, especially when adults and children have conflicting interests".

It should be added that both public and private organizations do not always abide by the rules and regulations, and that people with difficulties are frequently ignorant of whom they should address to.

Moreover, the child-person is not represented anywhere as such : it is not allowed to vote, and neither does it pay any taxes ; this is presumably the raison why children cannot throw their full weight in the scales of decision-making, even though these decisions may have immediate consequences for them. Without minimizing the usefulness of certain measures favouring children or the value of numerous actions taken by public and private organizations and institutions, the M.D.E. believes that the situation in Belgium calls for the establishment of a new and independent organ, responsible for the defense of children's rights, open to all and free to critize public bodies and private organizations.

I would now like to set out why our action is situated on the level of the French community and not on the national level, which, at least in theory, restricts its range of action.

From the opinions of the various members of parliament, we concluded that it would take much longer to obtain results in the national Parliament than in the Parliament of the French community. The M.D.E. has therefore opted for the most pragmatic solution and considers this decision to be an intermediary, yet very great step towards large-scale action.

The movement hoped that the example it had set would trigger similar initiatives in the Flemish community. The fact that we are attending this congress here indicates that our experiment has produced the desired effect and it can be expected that the Dutch-speaking part of Belgium will also try to set up "ombudsman-like" organizations for children. It is therefore well possible that one day these two parallel initiatives meet in a similar joint initiative on the national level.

The role of the children's rights commissioner

The commissioner will lend his ear to anyone who wants to make a request, lodge a complaint or report a case of maltreatment of children. He will be entitled to conduct inquiries on their part and to draw the conclusions from it. These conclusions may cause the commissioner to take personal action or he may refer the people concerned to an organization that specializes in the matter.

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He will be in charge of :

- the correct application of the laws and regulations governing the protection of children ;
- the guard over the rights and interests of children in matters of public planning and administration ;
- the elaboration of new measures or regulations to guarantee a better respect of the rights of children.

He will furthermore provide correct and sufficient information about the rights of children to the public bodies, private institutions and individuals. To this end, he will use every means, including the media.
His competence will cease after his "clients'" attainment of the age of majority.

How will the children's rights commissioner function ?

Independent of any hierarchical or political structure, the commissioner will function on the highest administrative level, i.e. the ministerial level of the French community.
He will be competent to take action against both the public bodies and private organizations.
He will therefore have free access to all public and private children's defense organizations ; they will be compelled to let him have whatever documents needed to accomplish his mission.
He will make the necessary contacts with the authorities and regional or local institutions and organizations. Similarly, he will span the gap between the central authorities and the French community for those cases that are beyond the competence of the latter.
He will be an assiduous interlocutor for all, a competent adviser and an alert defender of the rights of children. He will not be empowered to take decisions, nor will he release the public bodies from any of their responsiblities. He will however be able to put pressure on them, as well as on private institutions, to ensure a greater respect of the rights and interests of children.
Exceptional situations may lead to principal questions and result in concrete proposals, aimed at improving or complementing the existing legislation and procedure. The children's rights commissioner will be assisted by a small staff (4 people in Norway) who will assure a large diversification of his powers.

Opposition

Our initiative has met with reservation and opposition, which generally translated the authorities'lack of enthusiasm to set up a new organ that would not hesitate to critize them. It also testifies to a certain "smugness" of the existing institution, which find it hard to accept that their activities are capable of improvement and completion.

This explains the criticism that a new organ with a limited accessibility for individuals and without any power of decision at all would only needlessly add another structure to the existing movements and institutions.

This objection completely ignores the real nature of the children's rights commissioner. Like in Norway, where the ombudsman allots a considerable amount of time to children who come to see him about their problems, the children's rights commissioner will be accessible to all. Although he has no decision-making power -it would give rise to disputes of competence if he had-, the commissioner can put pressure on any organ or institution. Far from taking the place of existing organizations and services, he wants to increase their effectiveness by putting them in charge of cases that are within their competence. Additionally, he will reveal abnormalities or abuses of procedure, and gaps in existing provisions. His right to formulate criticism will benefit the well-being of the children.

The financial objections to our initiative do not compare with the huge sums of money that are spent -even in times of austerity- on much less noble causes than the defense of the rights of children.

Conclusion

As an institution accessible to all those who care about the well-being of the child, as an independent and objective critic of the existing system, and initiator of new or complementary measures, the chilren's rights commissioner will safeguard and promote the rights of children at the same time.

Moreover, and perhaps this is the most important aspect of all, the very existence of the commissioner will be the affirmation of the recognition of the child-person whose rights are not granted but recognized.

TOWARDS THE CREATION OF AN "OMBUDSMAN FOR YOUNG PEOPLE" FOR THE FRENCH-SPEAKING PART OF BELGIUM ?

Jean-Pierre Bartholomé

I. Introduction

The set up in Wallonia of a number of service centres for young people in an open environment, among which the legal aid services called "services droit des jeunes" (the young people's rights service), is the outcome of a series of events.

The social educators' strike in 1974 made large groups of children and adolescents leave the institutions they had been placed in. Out on their own or helped by their parents, they turned out to manage very well without the institutions or their educators, who now started asking themselves questions about the use of their intervention.
At the same time there was a general malaise among social workers who grudgingly saw the juvenile instances increase their tutorial grip on a growing number of families and children, said "to have problems" or to be "in danger". The most frequently rendered decision at that moment was placement, which was synonymous with the child being removed from its family (the number of placements ordered by the Justice Department has quadrupled over the past ten years...).

The social workers discovered that the magistrates, who are responsible for the application of the "law of the Belgian people", sometimes had mysterious ways of interpreting these laws. Their idea of "the interest of the child" even induced them to violate certain laws. The Belgian legislation stipulates for instance that a juvenile court cannot order minors to be sent to prison unless "no private person or public institution is found capable of accommodating them immediately". Yet a 17-year-old adolescent, who was to be placed in a foster family after having run away from home and fled to France, was put away for 15 days, though he had not committed any penal offence. The reason for his imprisonment was his impertinent behaviour before the juvenile court... Another 15-year-old adolescent who was living at home was sent to prison on three different occassions for stealing a moped. The judge involved declared that he wanted to prevent the boy from starting a criminal career and becoming a recidivist.
In these two examples, the judges deceivingly motivated their decisions by saying that "it was practically impossible to find a private person or a public institution capable of accommodating the minor immediately".

The social workers alerted the Human Rights League, the "Association des Juristes Démocrates" (the Democratic Jurists Association), the unions of young people,...

The illegal expulsion of an North African boy during the same period (1978) caused a public scandal and made a local organization, called the "Young Bar", rally behind the others. Together they advanced a legalistic reform : the introduction in the juvenile court of a permanent group of lawyers who would freely offer their services. Additionally, demands were formulated for a modification of the law, aimed at offering minors the same procedural guarantees as adults who have to appear in court.

The Minister of culture prepared and published a "Guide des droits des jeunes" (a guide concerning the rights of the young people) ; he subventioned those organizations that helped young people in their "natural environment" in order to avoid judicial interventions and placement in institutions.
The first "young people's rights service" was set up in 1978 -as an experiment- to function within the "Direction Générale Jeunesse et Loisir du Ministère de la Culture".
The next step was the subventioning of a union of young people and a youth information centre. The money was to pay the fees of lawyers and a legal adviser.
Today, towns like Brussels, Liège, Mons and Namur all have their "young people's rights service". The office in Namur is the only one to be financed by the Ministry of Social Affairs. It functions as a "service de prevention en milieu ouvert" (a service for protection in an open environment) and gives full employment to four people.
(Note that in Wallonia the term "AMO" - Aide en Milieu Ouvert is used for services with a non-judicial status, which resemble the "clubs de prevention" known in France.)

The other institutions make do with what they have : meagre, incentive subventions, the services of people who have been sent by the Ministry of Employment,... .They even go out on the street to collect donations. The association responsible for the the project in Liège, for instance, presently employs one documentarian and one jurist.
Over the years, the activities of the "Services d'Aide aux Jeunes" (the youth aid services) have evolved : the purely judicial reform of the early beginning has made room for more pedagogical activities, which focus on the rules of life in society. Moreover, the scope of intervention has been widened from juvenile justice in the narrow sense of the word to a wide range of social problems like children who have been expelled from school or the refusal of the Public Centres for Social Welfare (C.P.A.S) to provide help to people in need.
But let us now leave the anecdotal aspects for what they are and concentrate on the analysis that underlies the experiment.

We started from the thesis that the social exclusion of delinquent children and

adolescents has little to do with a conscient choice made by themselves, but that it results in the first place from the incapacity of the "wrongdoers" to resist the label imposed on them by an environment that brands them as different, which makes them at the same time victim and accomplice.
We therefore thought that extensive information about the possible alternatives and the appeal to a contradictory hearing (in the legal sense of the term) might enable the people involved (children, adolescents or parents who face social or judicial intervention) to have a greater say in the process of decision-making, to dicuss -and if necessary to oppose- the measures imposed, and finally to avoid as much as possible these so-called preventive measures that emphasize social and cultural discrimination more often than they put a stop to it.

A specialized boutique has been created to put the penal, administrative and judicial codes to the disposal of young people who have to appear before the juvenile court or families who risk falling back on social welfare. These codes should facilitate their transition from objects to subjects of the legal system. They would make it easier for people to claim their rights in a more socially accepted way than by rebellion, violence, suicide, running away from home or fraud. Moreover, this information would enable them to intervene expertly in the decisions that regard them.

The first field of action for legal aid to young people is the area of the youth protection act. Whether of a social or a judicial nature, youth protection is ultimately aimed at the development of children [1].
To ensure that the children can enjoy this right, the State has taken preventive actions -general prophylaxis and special protection- with the set up or subventioning a number of organizations or services. The right for development tends to defend the principles of the "Declaration of the Rights of the Child".
We see that in practice the least privileged people -children or adults- are most frequently excluded from the systems that were designed for them in the first place, whether their problems lie in the area of compulsory education, social welfare, social security, social housing policies,... .Additionally, there are a number of malfunctions in the youth protection system which produce countless other harmful effects such as stigmatization or permanent assistance.
The legal aid service for young people has set itself the goal of doing away with these mechanisms of social exclusion.
We found that the "beneficiaries" of particular measures simply put up with the harmful effects, or at least endured them with a certain fatalism. We believe that correct and clear information about the legal alternatives could change the attitude of these people.
Informing children and their families about their rights and obligations thus seems to be an essential element of social policy. Yet it takes more than knowledge alone to act : it often requires an experiment to (re-)win the confidence of those who for years have been discriminated and to convince them to decide their own fate.
The application of legal remedies, especially in administrative matters, is so

complex that it demands considerable professional help to give certain population groups access to the judiciary system.

The autonomy of the client and the rights of those in social welfare :

In the presentday system, social welfare is based on the presupposition that the client does not have any autonomy. This situation automatically contributes to the perpetuation of a state of dependency. "That is why the nature of the contacts between the client and the social workers is of the utmost importance for the client to preserve or re-gain his autonomy. It is therefore imperative that the decision-making process should be revised [2].

Many subjective rights have become common practice thanks to the existence of a large number of precedents (tax law or expropriation for instance), but in matters of social policy this appears to be impossible.
Apart from being judged on his alledged lack of autonomy, the client is also labeled as incapable, handicapped, sick, deprived, marginal or else as a patient, a victime or a delinquent. There is a multitude of labels to make him forget his quality as the holder of certain rights.
The autonomy of the client will necessarily coincide with his legal capacity. It is out of the question to evaluate this capacity. It has to be recognized as a fact. Ignoring it is definitely a step towards the abuse of power and a clear regression in the goals of the social services, which should precisely look for the autonomy of the client.

II. The activities of the youth aid services

1. Permanent relief

The "non-official" and hardly institutional character of these services attracts many young people who hesitate to turn to more official institutions. The slogan "YOUNGSTER'S RIGHTS" suggests that their rights will be recognized and that their problems taken seriously : we do our best to give them a complete survey of their rights and obligations and to find out whether or not their problems can be resolved by using a standard action-pattern. We also try to help people choose the best solution to their specific problems.
These permanent service centres are "strategically" located. They are therefore much frequented by young people. The information centre "Infor-Jeunes" has offices in NAMUR, BRUSSELS and MONS, and the "Centre-J." operates in LIEGE. The centres provide interesting information for young people about all sorts of questions and deal with matters concerning school, leisure, housing or work, and with the ensuing legal problems.
People with questions on social welfare or judicial intervention are adviced to apply to the youth-aid service.

- services that other institutions do not render

It is obvious that we give a brief answer to all questions, but we do not feel competent to settle any judicial conflict. The legal aid service for young people selects its cases very rigorously. Most of them are cases that cannot be settled before traditional institutions, because they would cost them too much time and money (which the client usually cannot afford) or because these cases require highly specialized lawyers or research, something which the traditional instances are unable to provide.

Our 1,200 annual consultations in the different centres do not all entail the opening of a file. Files are opened only when the information given fails to produce the desired result and other measures -social or judicial- impose themselves (the office in NAMUR opened 145 files in 1986). The social measures often come down to "guidance".

2. Social work

The organization "YOUNGSTER'S RIGHTS" often guides young people who have been excluded from the traditional structures (school, family, work, institutions, the Employment Exchange, the Public Centres for Social Welfare) and who, in spite of their problems at home, their drug problem or their delinquency, are not taken care of by the traditional social welfare services.

Our actions are not designed to take the place of these services. On the contrary, we try to make the young ones see how they can make use of the existing services. We explain them what rules they should observe. However, it sometimes takes a while before the adolescent involved comes to terms with these administrative and judicial realities.

In many of our interventions we help children and parents in their negotiation of the conditions for a family life. It has occurred that the points of view of the two parties were so far apart that the problem in the beginning presented itself as a request, formulated by the child or by its parents, to be placed in an institution.

In other cases we helped with the realization of the projects of children who were going to be dismissed from the institution. This kind of work required cooperation with the other social services in the area.

3. Legal aid

A) THE PRIVATE AND FAMILY LIFE

We are mainly concerned with young people who broke up with their parents. If the rift with the parents has been too tough to digest, the adolescent can come and see us to talk about it, which may enable him to get the dialogue with his family going again. It may also happen that we invite all family members to meet in our centre. If a family therapy seems the best way to solve the problem, we naturally refer the people involved to a specialized centre, but we continue our intervention until a minimal agreement is achieved.

In this way many youngsters can engage into a conversation with their parents again and work out problems that otherwise would have been settled in court.

In other cases, it was agreed to give the minor his independence and to make the parents pay a maintenance allowance so as to allow him to finish school or to look for a job. These situations are frequently known to end up in applications to social welfare organizations or before the justice of the peace to settle the question of the allowance.

Numerous adolescents are literally driven away from home by their parents' refusal to accept their liability of maintenance. The juvenile instances do not consider minors who are capable of living on their own to be minors-in-danger and when civil law offences have to be settled, the justice of the peace is competent. However, if the parents do not support the adolescent financially, the case is turned over to C.P.A.S. One can very well imagine the huge problems this creates when the parents and the adolescent do not get along.

Other regular clients are young people who have just left borstal and who are now faced with the practical everyday problems that come with living on one's own. Their questions relate to payments, debts, rent,... all these small practical things they never learnt to take care of.

Two adolescents living together as a couple is an experiment that is generally disapproved of by adults.

B) SOCIAL WELFARE FOR YOUNG PEOPLE

When his family fails to contribute to the fulfilment of his material and affective needs, the law stipulates that the adolescent is entitled to protection or social assistance.
The organization which provides most of this protection and assistance is the C.P.A.S. (their task can be compared with that of the D.A.S.S. in France).
We inform young people or their parents of this right, but we mention at the same time that it is quite difficult to assert this right for social assistance, the reason being that the C.P.A.S. have a tendency to refer adolescents systematically to the court, so as to pass the charges for any intervention onto the Ministry in case of domestic problems.
Theoretically, the distinction between the clients in judicial youth protection and those in social welfare for young people is sharply pronounced : in the former case they constitute the object of measures imposed on them, while in the latter it is they themselves who request or accept an intervention. In practice, however, this distinction is not so evident : the adolescent-in-difficulty chooses an organization in function of a number of reflections which are totally irrelevant to the nature of his problem. Chief among these reflections is the unwieldliness of the C.P.A.S.
Many people, including social workers, regard the juvenile court as more flexible than the C.P.A.S. and more apt to render the desired services.
We have finally succeeded in obtaining an administrative decision that sanctions the young people's right for social assistance, even though they are in

the charge of the juvenile court. Nevertheless, the C.P.A.S. remains quite reluctant to pay out sums of money in case of domestic problems.

Our actions in this area are restricted, inasmuch as they concern individual cases only. But these cases have examplary value and we notice that court decisions are clearly influencing the views of the professionals in social welfare.

It is significant that 50% of the cases involve adolescents under the charge of judicial youth protection, who , with the approval of the magistrate, want to put an end to their placement in an institution.

In the worst cases we had to look for private persons who were willing to advance money for the accommodation of adolescents who, pending the decision of the court of appeal, had nowhere to go to and could not rely on the C.P.A.S.

It must be admitted that adolescents are often sidetracked by the time-consuming procedures and the bureaucratism of the C.P.A.S..

C) JUDICIAL YOUTH PROTECTION

Adolescents who are "threatened" or who are the object of judicial measures apply to us when they feel the measure taken by the judge to be injust.

We explain them the procedure followed and the possibilities for defending their point of view in discussions with their parents or the magistrate.

However, we see that most young people who are dissatisfied with their situations prefer to run away instead of trying to engage in a dialogue that may result in a better comprehension or a modification of the measure.

We also had to make an appeal to our lawyers in order to stop the imprisonment of "non-delinquent" minors whose conduct had been termed as rebellious.

Our "follow-up" of cases depends to a very large extent on the adolescent himself. He may re-contact us after having run away from home again, subsequent to a row with a parent, a conflict with his landlord or the C.P.A.S., etc.. In other cases he turns out to be very well capable of assuming his responsibilities.

It is worth mentioning that these cases with the label "youth protection" concern youngsters who have been cut off from their families and who, in spite of the efforts of our organization and others, have to work out their problems for themselves.

Adolescents do not always see the court's custodial or educational measures in the right perspective. The judge is usually aware of this, but he wants to put them to the test of freedom, though they are not always equipped to assume this freedom. We believe that the actions we then propose certainly give greater satisfaction than rebellion or the use of violence, two outlets which are regularly resorted to by adolescents who have been expelled from school or turned down by their families or the social services.

D) PROBLEMS AT SCHOOL

Contrary to people from the two previous categories of problems, the adolescents who come to see us about problems at school (repetitive expulsion for instance) are generally accompanied by their parents (it even happens that the parents themselves take the initiative to contact us). This finding proves that people who consult us about problems at school are not yet living on the utter fringes of society. They are still on good terms with their parents who support and surround them.

Conversely, adolescents who "fail" before the juvenile court or the C.P.A.S. already "failed" at school, and either accept their repulse with resignation or reject the thought of going back to school themselves, although most of them are under 18, the compulsory school age.

The problem of being expelled from school occurs among children of all categories.

But apart from expulsion and problems of discipline, our organization deals with the questions of those who have been refused admittance to a particular school and are now searching for new opportunities. Finally, we also receive complaints of people who have been failed and who feel this to be an unfair decision.

In 1986, our office in NAMUR kept files on 40 of such cases, 8 of which were abandoned on the initiative of the minor himself. Some of the minors won their case in the Court of first instance (in summary proceedings). In other cases, and this is tendency becomes more and more perceptible, the matter was settled amicably.

There were reasons to believe that the re-integration of a student who had previously been refused admittance would be virtually impossible, as the school governors or the teaching staff were likely to find the court's order to admit the boy difficult to swallow.

So we kept close watch on the events and kept in touch with the minors and parents involved. Apart from a few exceptions, the re-integration was an overall success. The same could be said about the enrollments which were imposed by court decisions.

We could also mention here that the introduction of judiciary checks on the relations between the student and the school has resulted in a debate on the observation of the rules of life at school and that subsequent to a re-integration order the Minister of Education sent circulars to all school governors to remind them of these rules.

4. The rights of adolescents and cooperation with lawyers

The fees of the lawyers who work for our office in NAMUR are paid from a defense fund that is financed by the Ministry of Social Affairs of the French community.

The agreement between the Ministry of the French community and "Infor-jeunes NAMUR" is based on the Royal decree of February 4, 1981 concerning services

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that collaborate on youth protection. It was completed in 1985 with a provision stipulating that, in addition to personnel expenses, the fees of lawyers who work together with the youth-aid services are covered by the defense fund. This rule applies to all cases where pedagogic actions proved inadequate and legal action had to be taken (both as plaintiff and defendant).

It was agreed that the members of the bar would limit their fees to the fixed amount of 7,500 Bfrs. This system allows us to make a rough estimate of the financial scope of our service.

The fund's reserves are broken into only when the intervention of a specialized lawyer is needed and the "B.C.D." system (the legal aid system) is unsuitable : this is the case in civil law matters relating for instance to divorce, rental agreements, etc. or to defense before a district court. The fund is essentially drawn upon in case of judicial protection for young people, administrative disputes in matters of social welfare (C.P.A.S.) or expulsion from school. This defence fund will remain our principal resort as long as we cannot rely on a suitable legal aid system that leaves the choice of a lawyer totally up to us and allocates the necessary funds to pay the fees. Such a system would allow us to consult highly specialized lawyers and to turn all cases over to jurists.

5. Results

Criterion :

The result of our intervention is evaluated when a file is closed. If the cliant has obtained satisfaction, the result is "positive", if not, the result is "negative". This criterion enables us to evaluate the effectiveness of the legal steps we have taken, the decisions taken in the first instance or before a higher court being very valuable and reliable indicators. We are fully aware that this criterion does not make it possible to check the basic hypothesis underlying our action, namely that it helps blocking the mechanism of marginalization.

	OPEN ON 1/7/86	OPENED BETWEEN 1/7/86 AND 31/12/86	TOTAL	CLOSED ON 31/12/86	OPEN ON 1/1/87	+	-	ABANDONMENT
YTH PROT	9	15	24	11	13	5	0	6
CPAS	9	10	19	12	7	6	1	5
SCHOOL	13	19	32	18	14	7	1	10
PRIVATE	13	16	29	15	14	4	0	11
PENAL LAW	5	1	6	3	3	2	0	1
WORK	8	11	19	14	5	7	1	6
OTHERS	4	2	6	6	0	5	1	0
TOTAL	61	74	135	79	56	36	4	39

Conclusion : from the administration of justice for minors towards the rights of adolescents

The young people's rights service has been active for the past ten years. Therefore there are certainly a number of conclusions that can be drawn.

1. Law and social work

Our taking recourse to legal remedies, as a privileged instrument of social assistance, might suggest that the activity of our service resembles that of legal advisers and lawyers to a very large extent. Indeed, it is generally lawyers and legal advisers who advise people what to do or help them settle conflicts out of court. But apart from the fact that we go further, our services still show some other points of difference :

As we already mentioned, the informal character of the "Infor-Jeunes" centres makes it very attractive for young people.

The legal advise is given in clear, yet precise terms, of an easy comprehension for the adolescent. A large amount of time is spent on the exact understanding of the problem, something which professionals cannot always afford to do.

Legal action is taken only if all other attempts to resolve the problem amicably have failed. If an amicable settlement turns out to be impossible, the case is taken to court only on the client's instance and after he has been fully informed on the possible negative consequences, even when he wins his case (we think about conflicts with schools for instance).

Countless problems arise from ignorance about the steps that have to be or should have been taken. That is why, on principle, we refrain from taking these actions ourselves.

We insist that the people concerned should attend the court session, though we tell them that this is not (always) obligatory.

All these elements stimulate in our opinion the adolescent not to walk away from his responsibility and to try to resolve his problems. In this sense, our work is not only informatory, it is somewhat educational as well.

While a lawyer tries to "win" his case, our occupational "disability" (read : our deontology) of social workers induces us to look for the positive result for the client rather than to congratulate him on his victory in court. Sometimes the two go hand in hand...

2. Beyond the juvenile court

In the beginning, juvenile justice seemed the area par excellence for the introduction of these new techniques of legal aid, considering the large number of abuses in this sector. Yet the applications of many of our "clients" made us sensible to problem areas beyond the juvenile court, where abuses entailing the exclusion of young people occur at least as often -if not more often- than in the field of juvenile justice : school, social welfare, etc..

We anticipated the existence of these situations and we referred to them in the brochure passed round to make our service known.

But we had no idea of the scope of this problem. It was revealed that our intervention in these problems could frequently avoid the legal proceedings which other institutions precisely aimed at, in order to avoid the financially or technically difficult situations.

This type of intervention also leaves room for alternative answers to the problem of placement of adolescents in institutions when this is not absolutely necessary.

We concluded from a first evaluation of our services that they are not rendered by any other organization : the "Bar" does not help this kind of people with this kind of problem, unless a mediation is possible allowing the lawyer to be paid, and equipping him with the necessary means to intervene in areas where the "non-judicial" often prevails over the "judicial".

It sounds quite paradoxical that people who are supported in their efforts to challenge the authorities and to fight for their rights accept "authoritarian" decisions more easily when they participate in a discussion to which they were allowed to take part. This support also entails a greater respect for the obligations of social life (i.e. the rights of other people). This phenomenon became perceptible at times when the reaction of the authorities was limited to obscurantism. We have still a long way to go before they will see that our interventions are solely directed at reminding them of their "answerability".

Judicial intervention grates under the skin of social workers, school governors, people in the public service, political figures and union representatives. It is still considered a crime to inform an adolescent or a parent how to resolve their problems themselves.

Social workers seem unable to understand why a family decides to come up for its rights instead of settling for the second-rate arrangement which they intended to saddle them with. "It is going to put them in a bad light", they say. "They 'll pay for it sooner or later !"

Over the years, these early reactions have changed and we see that in the areas of intensive intervention more attention is now paid to rights and procedure (this safeguard against arbitrariness), and to the problems and the person of the adolescent.

This explains why the number of cases we settle in court is inversely proportional to the number of conflicts we can arrange amicably, a solution that is becoming more and more frequent.

Yet, on the whole this evolution is marginal. Certainly, there are social welfare organizations that show respect for our methods and refer an increasing number of children to our services (the public prosecutor "denounces" the C.P.A.S. for refusing assistance, the C.P.A.S. "snitch" on the principal who illegitimately refuses to admit a child,...). But this figure pales before the total number of problems the young ones are faced with. We have the impression that we are some sort of laboratory and that the social services do not put our experiments into practice.

It was to remedy this situation and to share our findings with other organizations that we decided to publish a monthly report on the evolution of the

jurisprudence and legislation in matters of youth welfare work.
Along the same line, we organize and animate training sessions on social rights in several towns throughout the country. We even regularly delegate colleagues to other organizations to work within a medico-psycho-social team on the legal aspects of the problems they encounter.
But the results of all these efforts are not that fast to show. Much is expected from the discussion of a bill concerning youth-welfare work, which has been introduced in the regional Parliament of the French community. Although the text does not explicitely provide that the man in charge of the youth welfare work will assume the function of "ombudsman", this will certainly be brought up for discussion.

Organizations like the "Médiateur" in France, the "Protecteur du citoyen" in Quebec, or the "Ombudsman" in Sweden use methods that are similar to ours. The official character of these institutions gives them greater audience with the authorities concerned. Vesting functionaries of the youth protection committees (services that are organized per district) with similar competences would seem to be a great step towards the generalization of an activity that we believe very valuable.

Notes

1. Cf.
   Les Novelles, Protection de la jeunesse, Editions Larcier, 1978, p. 10, no. 18.

2. BIANCO, J.L., Lamy, P., L'aide à l'enfance demain, Contribuation à une politique de réduction des inégalités, Etudes R.C.B., Rapport et Annexes, Ministère de la Santé et de la Sécurité sociale, Etudes et Documents, Paris, mai 1980.

CHILD ADVOCACY

Jenny Kuper

Introduction

In this paper I will not examine in detail the different systems and definitions of 'child advocacy' as practised in England and Wales, but rather I intend to describe briefly the way in which the organisation for which I work puts this concept into practice.

I will use the word 'child' to refer to people aged under 18 (which is the age of majority in the U.K.).

Child advocacy is one of the central concerns of the organisation for which I work. But what is this organisation ? And how do we advocate for children ? What particular problems do we deal with ? These are some of the questions I will look at.

The Children's Legal Centre is an independant national organisation concerned with law and policy affecting children in England and Wales. We feel that children should be recognised as individuals, entitled to participate as fully as possible in decisions which affect them. Therefore, one of our primary aims is to ensure that children are given a fair hearing when decisions are made about them, whether these decisions concern education, health, family matters, or whatever.

A fair hearing implies, that children's wishes and feelings about issues concerning them, should, whenever possible, be heard. However, a child who is reluctant to do so should never be forced to express an opinion. Where a child does wish to make her/his wishes and feelings known, this can be done either by the child or children being able to express these directly, or by having someone else represent the child or children, or by a combination of both.

Age should not in itself be a bar to the representation of a young person's point of view. Children as young as 3 or 4, for example, may well have strong opinions about many issues - such as whether or not they want to keep in touch with the non-custodial parent after their parents divorce. However, in England and Wales children of that age are rarely consulted.

How do we work on child advocacy ?

So how do we work to achieve this aim ? First of all, I should explain that the Children's Legal Centre is a small organisation, currently employing only 6 workers of which 2 work part-time. We therefore cannot take on many cases ourselves, although we occasionally become involved in test cases, (i.e. cases

which might change relevant law or policy).
However, we do operate a very busy advice service, by telephone and letter, for young people themselves or adults who contact us on their behalf.
We also lobby Parliament about relevant legislation, initiate research, write publications, (including a monthy magazine called 'Childright'), give lectures, and so on.
Some of our work has been very effective in changing government policy. For example, in relation to child care law, a number of our recommendations for changes have recently been accepted by the Government, such as : that complaints procedures should incorporate an independant element; and that there should be fundamental changes in the grounds on which a child can be taken into care.

The wider context

There are also specific problems which we face in our work, and which have to do with, for example, traditional English attitudes towards children and child-rearing.

England is not a 'child-centred' country. The proverb 'children should be seen but not heard' (which can be traced back to the 14th century) still governs the attitude of many English adults towards children. Only last month, in a debate in the House of Lords, one of the Peers described children as 'wicked little creatures'. Also recently a magistrate wrote an article saying that young offenders, like dogs, needed to be trained by swift and unpleasant punishment.

Recent positive developments

However, there have been signs of some positive changes at least in official attitudes towards children.

One significant step was the recent ruling (in October 1985) of the House of Lords in the Gillick case. This case was brought by a mother, Mrs. Gillick. She wanted the court to order doctors not to give advice on contraception to any of her 4 daughters while they were under 16, unless the mother knew and/or consented to this. The court therefore had to deal with the wider issue of whether any child under 16 could be given contraceptive advice without parental knowledge or consent. In the event, the House of Lords refused to give Mrs. Gillick the assurance that she sought, and delivered a judgement that has wide and very positive implications for children's rights. The judgment emphasised 3 particular points : 1) parental powers exist only for the protection of the child, and must be exercised for the benefit of the child; 2) parental powers dwindle as the child matures - that is, parental power 'starts with a right of control and ends with little more than advice'; and 3) parental powers depend on the understanding of the individual child, not on any fixed age.

Another recent and positive development in the law relating to children in the

U.K. has been the abolition of corporal punishment in most schools, from August 15, 1987. As you will probably know, the U.K. has vigorously defended, both at home and in the European Court, the right of adults to punish children by beating them. In fact, the decision to ban school beating was won in the House of Commons last year by only one vote.
That decision has now been implemented, although with a few exceptions which still allow children in certain kinds of schools to be beaten by their teachers. It is to be hoped that beating in all U.K. schools will shortly be abolished, particularly now that the European Commission of Human Rights has ruled against the U.K. government that a caning given to a girl constituted 'degrading' punishment contrary to Article 3 of the Human Rights Convention.

Finally, a more technical matter. Since May 1984 there has been in existence a scheme for 'guardians ad litem' as well as lawyers to be appointed for children in many child care cases - i.e. cases when a child may be placed in the care of public authority. The role of the guardian ad litem is, among other things, to ascertain the child's wishes and feelings and make these known to the court. However, if the child's wishes conflict with the guardian ad litem's opinion of the child's best interests, then the child can be entitled to directly instruct the lawyer, who will advocate the child's point of view. This system therefore acknowledges that there are limitations to the 'best interests' approach to children, and that children should be entitled to direct advocacy where appropriate.

Some specific areas of concern

However, the situation for children in England and Wales is still far from satisfactory. The Children's Legal Centre is currently concerned about a number of specific areas in which the treatment of children leaves much to be desired. I will describe 3 of these.

First, there is at the time of writing this paper, an inquiry being conducted in Cleveland, in the north of England, into a large number of cases of alleged sexual abuse of children. Over a period of approximately 2 months in the middle of 1987, 113 children were taken into care on the grounds that they were being abused. The enquiry is looking at how and why this came about, and we have submitted detailed comments. We feel that if the allegations of abuse are largely proved, this would of course be very distressing, and a reflection of the deeply rooted negative attitudes to children in our society. However, whether or not the allegations are verified, we are concerned about the way the professionals, who dealt with these cases, although ostensibly acting in the child's 'best interests', almost uniformly acted with little respect for the children involved. For instance, children, even teenagers, were frequently medically examined without their consent or the consent of their parents; they were removed from home at short notice and with little explanation; and when they were given an opportunity to discuss the situation, and express their feelings, they were often not really listened to or believed. There were also

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serious flaws in the judicial processes used to resolve these cases : for example, delays of many months in preparation of cases for court hearings, and lack of adequate (or sometimes any) representation for the children.

The Children's Legal Centre has also, for about 3 years, been involved in looking at the treatment of young people in prison department custody. We have been receiving allegations from young people, or adults on their behalf, that young people are being ill-treated by staff in certain establishments. That is, that they have been kicked, hit, punched, and/or otherwise abused. We have interviewed a number of these young people, and publicised their allegations. These allegations are sometimes very serious and include allegations of assualts by medical staff, for example. One of our main concerns here is that we feel there is no adequate complaints procedure, either for young people while they are in the establishments, or when they are released. For instance, young people in custody are rarely able to make complaints in confidence, and they therefore fear victimisation by staff if they do complain. Similarly, although court procedures are available, say, for a young person released from custody to sue prison staff for assault, there seem to be no examples of young people succeeding in proving these cases in court. After all, what magistrate would believe the word of a young offender against the word of a prison officer ?

Finally, the Children's Legal Centre is very concerned about the lack of proper representation of children - right up to the age of 18 - in 'family'matters, such as divorce, and custody and access disputes. In England and Wales, most divorces take place without the children having an opportunity to be consulted. The parents can agree to divorce, make arrangements between themselves for the care of the children, and the court will more or less 'rubber-stamp' this. Even in proceedings dealing specifically with matters such as custody and access, children are rarely represented. A 'court welfare officer' will normally see the children and write a report, but this report does not in any way advocate for the children, although it may describe their wishes and feelings. Nor do children have the right to initiate applications to courts on their own behalf in these sorts of proceedings. Compare this with the practice in other European countries such as Spain and Denmark, where we understand that courts must listen to children from the age of 12 when custody and access decisions are made ! However, there are moves to change the law in this area, and we have been consulted about changes we would like to see implemented. We receive a steady stream of letters and telephone calls from young people who are distressed by custody and access decisions made about them. For example, one young person wrote : 'In our case which started over 2 years ago, 6 different people, closely involved with us and the divorce case, did not attempt to either find out what our wishes or points of view were or totally disregarded them and us'. Another young person wrote, 'We think that children at the moment are treated very badly by official people who should be genuinely positively concerned about children'.

Conclusion

In conclusion, I should say that although I have focussed in this paper on child advocacy as practised by the Children's Legal Centre, there are other types of child advocacy being practised in the U.K. Of particular interest are 'self-help'-groups organised by and for young people themselves. For example, there is such an organisation for young people who are or have been in care : The National Organisation of Young People in Care.

Finally, it seems to us that this issue of child advocacy is very much linked to the way in wich society generally regards and treats children. Where children are treated with respect, it should follow that they will be encouraged to participate in decisions made about them, and to make their opinions known. Sadly, despite some recent improvements, this is not yet the practice in England and Wales.

THE CHILDREN'S RIGHT SHOP IN AMSTERDAM

Inger Wouters

Introduction

On the 15th of May 1985, the first Children's Rights Shop was opened in the Netherlands in the city of Amsterdam.

There were many positive reactions to this initiative and it was considered necessary to meet the need of children for legal assistance. Others were surprised and even against the initiative.

Surprised, because one did not know or realise that children have rights too. Against the initiative, because, being unaware of the aims and working methods of the Shop, one was afraid that children would be set up against their parents.

In the meantime the Children's Rights Shop has gained growing recognition and attention. Other Shops have been opened in the Netherlands and also other forms of legal consultation for children have been created.

I would now like to explain the basis of the Children's Rights Shop, followed by its aims, working methods and some of its cases.

Children and rights - basis for a Children's Rights Shop

1985 was declared the International Year of the Youth. A recognition of the fact that minors form a group one should pay due attention to, and which should be taken most seriously. For Miek de Langen, Professor juvenile law at the University of Amsterdam, it was an incentive to realise the idea of an idependently organized form of legal aid for minors which would have easy access. This resulted in the establishment of the Children's Rights Shop.

The idea of a Children's Rights Shop can be seen as an important outcome of concepts living among legal experts during the sixties, to discuss and promote the legal position of children.

In society, minors gradually acquired a more independant and emancipated position. Authority was no longer a law on itself, but in their opinion it required a legitimate and reasonable basis. There was more criticism about the existing social order, they wanted to carry more responsibility and they tried to make clear that they were a group which needed protection but also a group to be taken seriously. Minors gradually obtained more independence and a voice in social processes. All these developments led to deep discussion about changes in law and policy with regard to the youth. Suggestions in this respect were the introduction of minors into procedures in which their main interests were involved, the acknowledgement of certain rights for various age groups as well as the effectuation of these rights and the possibilities to use them. In the Netherlands these discussions led to marginal results - which is rarther regrettable.

In 1982, it was ordained by law that twelve year old children in all civil law cases concerning their person must be allowed to testify before a judge. Furthermore, as from 1 January 1988, the age of full legal responsibility was reduced to the age of 18.

Children are human beings and they have the same fundamental- and human rights as adults. Dutch jurisdiction has acknowledged that the rights of a child, for example the protection of private life and of the family, should be evaluated and compared with those of adults. Children in the Netherlands, however, have as yet no entrance to the administration of justice, formally they are not legally accepted as full members of society and must be legally represented by parents or guardians. Only in some cases children themselves can appeal to the court.

In social reality the recognition of basic- and human rights of children is lacking. In schools, at home, as well as in working situations, the rights of the child are violated.

Children feel that they are not done justice but do not realise that their rights are indeed being violated. Even when they know this, they usually do not know the precise contents of these rights and how to realise them. When you accept children really seriously it is important to guide them how to present their case and help them in the acknowledgement and realisation of their rights.

This is the basic idea upon which the Children's Rights Shop started its activities.

Aims and working methods of the Children's Rights Shop

The Children's Rights Shop was established as a foundation and is finacially dependent on grants. Governmental authorities give little or no help, so it depends on donations and private financial support. Our staff exists of volunteers with a law degree or a degree in pedagogics, or in the final stage of their studies and who have followed subjects concerning juvenile law. Since January 1987, we were able, thanks to two private funds, to employ a part-time coordinator and in 1988, this grant can also be expected.

The aims of the Children's Rights Shop are :

1. Giving general information on the legal status of children, both to children and adults. We try to do this by means of newspaper articles, magazines, children's publications and information to schools. A video series is being made for the latter.

2. Legal advice and information to minors who have problems in this area.

3. Actual legal support to minors with legal problems.

These last two problems had priority during the first years of our existence and were realised through our "Shop"work.

All minors can come to the Shop with their problems and questions for which there are consultation hours on Wednesday, Friday and Saturday. Minors do not always come by, but also reach us by telephone or through letters. During the consultation hours there are three volunteers and a coordinator available. Mainly it is explained how a legal procedure advances or how legislation works in practice. There is advice on the possibilities to reach a solution and assistance to help the children evaluate the pro's and con's. Sometimes we help with writing a letter to the judiciary or a letter in the name of the minor. In the last case a lawyer is always contacted first. There are some fifteen lawyers willing to give advice and to represent the minors. There is also the possibility that one of the volunteers goes with the minor to various authorities or keeps in touch for a longer period to follow the case. Especially when the case has been transfered to another authority, this can be quite useful.

The clients of the Children's Rights Shop and their questions

Children of all ages have contacted the Shop, a majority between twelve and seventeen; their problems vary between :
changing your surname, financing a study, a change of guardian, contact with parents, child abuse, working rights and social security.

Some examples are :

Petra, 10 years old, calls and says that her parents were recently divorced and she now is with her father while her brother of six, is with her mother. The mother threatens that both she and her father are not to see her brother ever again. Every three weeks she goes to her mother for the weekend and afterwards her brother has a weekend with his father and sister. Petra wants her brother to live with her and their father and tells us that that's what her father and brother want too. She asks how this can be arranged.

In a personal interview at the Shop it soon became clear that there was no decision about guardianship as yet. Through his lawyer the father can apply for it for both children. Furthermore, Petra can via her father apply for an inquiry by the "Juvenile Protection Board". As Petra is only 10 years old, a judge is not held to hear her case, but he is free to hear her testimony. Petra is capable to express her wishes. The Shop volunteers to check her arguments as she wrote a letter to the judge. This letter was sent with an accompaning letter from the Shop, copies were sent to the Board and the father's lawyer.

Summer 1987, Pim came with a question about obtaining a passport. He's 18 and has been living with a girlfriend for 2 years. He wants to join his girlfriend and her family on a holiday which has been offered in celebration of her parent's 25th anniversary. Pim's father refuses to sign for a passport, and Pim wants to know how he can get one. During an interview it appears that the refusal of the father is based upon a quarrel with presided Pim's moving out which was a.o. about his girlfriend. As the age of majority was only lowered by the 1th of January 1988, Pim was still a minor at the time and needed the consent of both his parents for a passport. We tried to reach a settlement by telephone and by letter. When some contact exists we act as mediator. Next to this we can contact a lawyer who could ask for a "curator extraordinary" and apply for a "short term judicial verdict" against the parents.

FROM WORKING GROUP TO OMBUDSCENTRE

Jo Labens

In February 1970 a new youth centre was opened in Antwerp. The centre was called De Waag" as its address, 3 Lange Brilstraat, brought it near the "Stadswaag", the municipal weighing-house, in one of the city's most characteristic areas, which at that time had a reputation of the entertainment centre of a whole generation of Antwerp students. The "De Waag" Youth Centre wanted to react against both form and content of the traditional approach to youth community work. Its internal organisation, based on such principles as self-management and horizontal structures, was designed to stimulate the creativity of its members.

Inspired by a pronounced political and ideological vision, defined as left-wing and liberal thinking, the Centre also wanted to offer a larger scope to a broad range of working and action groups. One of its foremost priorities was to get through to so-called marginal or underprivileged groups, such as drug users, immigrant workers and young homosexuals. Young artists were given exhibition space and a free platform was offered to bands, theatre and cabaret workshops. The films projected in the Centre tended to be less commercial and the informal parties in the pub had young and old mingling together. Thus the "Waag" Centre proved its appeal to a very heterogeneous public, encompassing young workers, students and several teachers and social workers.

Initially, the aid work did not constitute a strictly separate part of the youth community work, but was strongly integrated in the overall activities of the "Waag" Youth Centre.

Tensions gradually developed within the initial broad spectrum of interests that constituted the "Waag", as differences in emphasis came to the fore : some members concentrating on noncommittal recreation in a convivial atmosphere, others emphasizing the need for educational activities combined with social action and individual aid.

As a result, the "Waag" began to function as a kind of placenta. Several members, once they had developed their skills within the "Waag", went their own way in order to found independent organizations. A children's workshop and an action group for young homosexuals (the "Actiegroep Homofiele Jongeren") were among the progeny thus spawned.
A parallel result of the growing tensions between cultural and recreational activities on the one hand, and politically inspired actions on the other, was the birth of the Action Group for Social Studies and Criticism (Dutch acronym AMOK[1] for "Aktiegroep voor Maatschappelijk Onderzoek en Kritiek").

The AMOK-acronym was coined in November 1970. The initial members of the group were all preponderantly action-oriented. AMOK's origins can clearly be traced back to a group working under the umbrella of the "Waag" Youth Centre, gathering those action-oriented members who wanted to help young people in distress, an activity which did not receive due attention amidst the bustle and hustle of the Youth Centre.

AMOK has been granted subsidies since 1971, when it was officially recognized by the (Flemish) Ministry of Dutch Culture as a JOCEMA or "JOngerenCEntrum voor MAatschappijvernieuwing" (Youth Centre for Social Innovation).

The AMOK team had at that stage acquired a certain reputation for aggressiveness, as it was continually hacking away at the hydra of social injustice, especially focussing on urban renovation, feminism, abortion, political education, freedom of the press, Third-World issues and the problems of young homosexuals and immigrant workers. Several actions were carried through in cooperation with other progressive organizations, such as Release, Elcker-Ik, C.G.S.O., G.O.C., "Jongsocialisten" (Young socialists), "A.B.V.V.-kadetten", "Dolle Mina" and others.

Meanwhile, AMOK had started renting its own accomodation within the "Waag" premises. Within AMOK itself two main tendencies were gradually taking shape :

- a first group of primarily action-oriented people, working within a definite political framework. Subsequent political discussions, however, tended to paralyze all further action and proved to be so disruptive as to make some people quit, while others split off, forming their own political organizations or joining existing ones.

- a second group of primarily aid-oriented people, stressing the importance of personalized assistance as a stepping-stone to subsequent social action.

  Some of these people would open up their own homes, on set days of the week, to take care of emergencies, such as homeless runaway youngsters. In this way the aid work was gradually developing parallelwise to the more action-oriented work within AMOK. This aid was still chiefly characterized by referral of clients to other services.

The first years of personalized aid were characterized by a very close cooperation with Release Antwerp, as the membership of both organizations did partially overlap. Following the dissolution of Release Antwerp, energies were directed toward the founding of JAC (Youth Advice Centre) Antwerp, as attested by the presence of several AMOK members at JAC's founding sessions on 11 March 1972. The first few months it looked as if AMOK's aid work would ultimately merge into the newly-founded JAC, but soon a number of personal, ideological and -last but not least- professional antagonisms arose, which halted any further integration, with both centres developing along mutually independent lines.

The negative experience accumulated in the course of early-day cooperation with other aid organizations, ultimately led to the establishment of an independent aid-oriented organization with a separate legal status, the "VZW AMOK"[2].

The new VZW AMOK was soon developing its own identity, quite distinct from that of its mother organization, the "Waag" Youth Centre. When the premises they shared had to be abandoned for financial reasons, both organizations decided to move to different addresses in order to become more fully autonomous. Mutual relations, however, have always remained cordial and cooperative up to the present day : accomodation and material are freely interchanged and a very close synergy subsists between AMOK, the "Waag" Youth Centre and the youth workshop. The Youth Club offers accomodation, especially to those marginal groups that are rejected by other youth centres, such as homosexuals or members of "Anarchistisch Kollektief Antwerpen" (the Antwerp Anarchist Collective). The youth workshop wants to stimulate the initiative of local children through experience-oriented work. In short, AMOK has chosen to concentrate on those people who have no other place to go where they can feel at home.

As young industrial workers and other social groups were, more often than not, left out in the cold by the existing network of aid organizations, some AMOK members were feeling a growing need to channel more energies into information and counselling. A brainstorming weekend on 27/28 April 1974 resulted in the definitive establishment of the VZW : a team of aid workers was set up and on Friday, 13 September 1974, the AMOK Aid Centre opened its doors at a new Antwerp address, 16 Lange Noordstraat. It started out as a combination of the former AMOK action group with a centre for information and counselling and a pub-like meeting-place.

The pub-like formula proved to be an instant success, as visitors were left free to discuss their problems in their own time. The pub came to be an ideal meeting-place where people simply could have talk or take a look at some information brochures.
Thus the focus was shifting on towards information- counselling and also, increasingly, onto guidance.

As the Centre was granted more subsidies following its recognition by the Ministry of Dutch Culture in 1975, it enrolled its first paid staff member in 1976.

At the beginning of 1978, AMOK moved on to its present Antwerp quarters, 103A Paardenmarkt, where it underwent a nearly complete metamorphosis. Operating as an "Ombudscentrum", it is still the only centre registered under that name.

It aims at the implementation of a fourfold programme, comprising information, counselling, service and action on four levels : social, psychological, medical and juridical. Its personalized aid will always be complemented with social action in relation to the "hot" issues of the day.

The Ombudscentre has abandoned its role of an "extraparliamentary source of power", still associated with the Scandinavian origins of its name, in order to adopt another motto : "to build up a certain position of power by bringing certain issues out in the open".

AMOK consequently aims at promoting its clients' autonomy, but never in a purist way : if necessary, it will sustain its clients on their chosen paths, supporting them with social action, and if needs be, even following them into illegality. In short, the Ombudscentre wants to take up the role of a consumer organization for the distressed.

A clear choice has been made in favour of any form of social action -apart from going down into the streets- which makes use of any other means tolerated by a democratic regime. This option implies integration within the pre-existing structures and an attempt to bring about positive changes from within, without renouncing a sharply critical distance.

AMOK's activities have been scientifically monitored since the end of 1975 and are the object of a project study under the supervision of prof. dr. Willy Faché of the Seminar for Juvenile Welfare and Adult Education at the RUG (State University of Ghent).

The Ideological Platform

AMOK's ideological platform was formulated in 1971, by a group of people who had come to work together for the simple reason that they already shared the same view on society and social work.

Now, 17 years later, only a few are left of these founding fathers. Scores of new workers have since joined the existing AMOK framework, where they are trying to cope with a rapidly changing social sector.

The fifteenth anniversary of the organization offered a welcome opportunity for a re-examination and re-thinking of the platform. The team spent two long evening sessions on its task. Their conclusion : only the details have changed, the platform's original essence has fully stood the test of time.

On all levels -micro, meso and macro alike-, much work remains to be done as regards emancipation, problem detection and reform.
Due to a number of modifications the full text of the ideological platform has been enclosed in this report.

Remaining true to AMOK's ideological pluralism and its independence vis-à-vis all kinds of structure, the team has nevertheless attempted to work out a new view on society and social work on which AMOK will be able to base its future

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activities.

A. View on the individual personality and self-realization of the aid worker and his client.

Every individual has a right to the greatest possible freedom, as regards ideas, self-expression and educational opportunities. This freedom can only be limited by another man's right to freedom and by the common good.

B. View on a desirable social structure.

- A society that would provide equal opportunity of development to every individual, is incompatible with social structures that divide the community into two antagonistic camps, viz. the "haves" (or owners of the means of production) versus the "have-nots" (who have nothing but their own labour to sell). The more so, as this dividing line is coinciding with that between rulers (exercising economic as well as political and ideological power) and the powerless mass of the ruled.

- Every claim as to the fruits of labour and the exploitation of natural resources can only be based on the common good, with the sole aim of guaranteeing to every human being the greatest possible freedom and welfare.

- Social needs are never to be treated as mere commodities. Fundamental human needs, such as physical integrity and mental development can never be made dependable on income. In order to safeguard equal opportunities and humane livingconditions, all social and public utilities (viz. the supply of electricity, heating and water), as well as all cultural, educational and medical facilities have to be accessible to all, free of charge.

- These social changes call for more than mere superficial structural modifications ; they can only be brought about through total transformation. Hence the need for a radical change of mentality, prior to the actual process of transformation.

C. View on social aid and practical relevance to AMOK's mode of functioning.

- The client's interests must always take precedence, insofar as they do not clash with the ideological principles set out above.

- AMOK's social aid can never be neutral. The final objective is always liberation, both on the level of the individual and of society. On the micro level of the individual, the client will be encouraged to free himself of oppression and to adopt a more combative attitude. On the macro level of society, problem areas will be "signalled", i.e. brought to the attention of other action groups and of the authorities.

- AMOK provides its aid free of charge, as every client has a right to equal opportunity of equal treatment.

- The guidance of clients must always maximize their autonomy in solving problems. If possible, the client must be taught to stand up against social pressure. Specific problem groups, such as juvenile delinquents, elderly people, the handicapped, people with mental problems and immigrant workers, can temporarily be given a more protective guidance, always in anticipation of an eventual escape from their situation of powerlessness.

- Within the framework of AMOK's view on a better society, room must always be made for different opinions as regards strategy and tactics. If this right were ever to be slighted in the name of "unity and ultimate aims", a monolithical organization would soon arise, with the concomitant dangers of fossilization and immobility.

- If AMOK's internal structure is to be a prefiguration of tomorrow's better society, a genuine pluralism should be fostered, allowing each team worker the right to work out "deviant ideas". This right is linked to his duty of maintaining a high standard of objectivity in his informative and counselling work. As this high standard can never be attained within the worker-client relation, the team worker shall seek the assistance of one of his colleagues, working from a different perspective.

- Our internal organization must be a genuine example of self-management : its anti-authoritarian structure should allow each team member an equal share in the decision-making process.

- AMOK should never be insulated from the general trends of social development. It should never function in splendid isolation, as if it were a social island, but must integrate itself as fully as possible within the overall framework of social forms of action, where every effort will be applied to the tasks of stimulation, coordination and socio-cultural education.

- In principle, cooperation with any other organization, whether private or public, is never to be excluded. But this cooperation is never unconditional, and can only last as long as it does not conflict with our view on man and society or with the personal freedom of our clients.

Recognizing general problem areas, signalling their social causes and the actual efforts to bring about change, must be passed on to more specialized organizations or to less vulnerable ones on behalf of the clients. AMOK itself will only come into action where all other organizations fail and only insofar as this does not endanger its existing operations.

How does our "Strategy" Relate to the "Alternative" Movement ?

The original form of alternative social aid fully identified itself with the countercultural movement, rejecting every form of cooperation with official bodies and traditional social-aid organizations. AMOK's position is not so unconditional.
Staying true to our own principles, we nevertheless try to cooperate, and occasionally even to participate, in a system which we have never ceased to contest.
We are not unaware that this severely straitjackets our social action space : indeed, if we were to become too much of a threat to the "traditionals", we would automatically be expelled from the system. Our major concern must be to safeguard our independence, to protect the anonymity of our clients, and to maintain a low threshold.

An all too rigidly "alternative" stance, while at first glance ideologically purer and more consistent, seems to us rather inefficient and naive.
Two realities are much too often mixed up : on the one hand, the now existing institutions historically grown out of the bourgeois ethic ; on the other, the present social constellation crying out for change.
If a person happens to be working within a traditional framework, it does not automatically mean that he himself is a conservative nor that he will act accordingly.

We will always remain critical of present-day institutions, laws and regulations, and even of the overall social structures, but we also feel that much progress can be made by working towards cooperation and a change of mentality, without having to start with a complete overthrow of the system.

This "collaboration" can, of course, never be total and unconditional ; our overall activity will always be inspired by our ultimate social ideal. But since nothing can be changed by an uncompromising stance "outside of" and "against" the "system", we are trying not only to strenghten our position within it, but also to conquer a certain position of power in it.

In our view, man does not only matter as a "social particle", but mainly because he is an individual. We therefore refuse to make the personality of our client subservient to an abstract ideology, or, worse still, to exploit his dependence for the realization of our own social ideals. For how can any lasting and efficient aid service be run, when that service excludes itself and its clients from the use of the greater part of the existing, already well-established, service network ?

It is these arguments that justify AMOK's cooperation with official bodies and

existing services, as well as its policy of good-neighbourly relations with all the institutions in the sector. This does not keep us from being always on the lookout for possible threats to our independence. In the end, it is always our client who decides -in dialogue with us- what should be done to solve his problem.
The fundamental difference between our position and that of the extremes of the "alternative" or countercultural movement, is to be found in our outward activity. There we do not blindly attack the system as a whole, but systematically try to question specific component parts of it. A good working-knowledge gained through the cooperation with other services, enables us to formulate well-founded criticism and to develop new blueprints and modes of action for the improvement of man and society.

AMOK and Social Aid

Many people in our society find it very difficult to find their way through the maze of the existing aid network of services and organizations. Even when the public knows of their existence, there are still the initial inhibitions, the fear of waiting rooms, waiting lists and red tape.

AMOK has therefore created a relaxed atmosphere (accomodations having been adapted accordingly), where any person with any kind of problem can be helped in an informal way and free of charge.

Some of our clients are particularly attracted by our pledge to respect their anonymity. Information about them is never passed on to third parties without their explicit consent. Registration is kept to a minimum. We do not apply any criteria for selection and try to help everyone, irrespective of age or any other criterion.

Our highly trained and diversified staff enables us to see these clients through their problems with minimal appeal to outsiders, except in those cases where this is clearly to the advantage of the client.

The diversity of our staff is very important to us, as problems can seldom be solved within the confines of a single speciality.

The position of our clients who, with our support, are no longer left alone to face their problems, is parallelled by that of the team workers who can always count on the backing of their colleagues.

The client's autonomy is another important tenet of our philosophy of aid. We feel that every client has the right to steer his own destiny and we encourage him to assume the responsibility for his own life.

In this respect we do not let ourselves be constrained within the bounds of prevailing moral or legal standards, which are often superannuated and out-of-date; priority is given to the needs of our client. We try to provide him with a range of alternative solutions, tailored to his way of life. The client decides on the final choice. He also decides when he wants to terminate the guidance : in short, he is always in control of the situation.

These procedures have been consciously adopted within AMOK with the express purpose of inverting the traditional hierarchy of power in the worker-client relationship. Our ultimate aim should always be to make people more aware and critical of the prevailing power relations within society and of their own position in the system, so as to make them think about the way their life IS and the way they WANT it to be.

AMOK and Legal Aid

We are not the first to point out the urgent and general need for more legal aid. This growing need is caused by several factors, such as the growing complexity and extension of the sources of objective law, the proliferation of government regulations, an enhanced awareness of subjective rights under the influence of schooling, the mass media and various social organizations. The growing demand for legal aid is only partially met by the traditional supply channels, such as the legal profession and particular lobbies, trade unions and consumer organizations. As a result, many people who have an abstract claim to certain rights, find it nearly impossible to put these rights into practice by enforcing them before a court of law.

Information versus Counselling : a genuine or an artificial distinction ?

This text in no way pretends to contribute to the scientific study of the activities of alternative aid-providing centres, the so-called JIACs ("Jongeren Informatie en Advies Centra" or Youth Information and Counselling[3] Centres). Nor do we intend to delve into the detail of the various professional approaches co-existing within the sector. In this respect, however, a misunderstanding seems to be cristallizing around two different approaches, polarizing various centres and their staff. A first group of centres is claiming that their work is primarily based on INFORMATION, while a second group is claiming the same prominent role for COUNSELLING, with still others adopting the mixed-bag approach. The INFORMATION centres blame their colleagues for their overly therapeutical approach and their neglect of the immediate basic needs of their clients. Some COUNSELLING centres retort that mere information is insufficient and does not warrant the existence of a specialized aid network.
In many cases a strict separation of the two functions is hard to maintain, especially in an international multilingual environment, where one word may denote two different concepts, while conversely, one concept may be denoted by two different words.

Hence this attempt to restore a modicum of clarity. We hope these notes may be a startingpoint for further discussion and will gladly welcome any additions, objections or corrections that may suggest themselves to the interested reader.

Every JIAC (Youth Information and Counselling-Advice Centre) fulfils four basic functions,, none of which is dispensable and which frequently overlap and complement one another. These four functions or modes are :

- INFORMATION;
- COUNSELLING;
- SERVICE;
- ACTION.

INFORMATION covers those activities where the aid worker limits his role to the dissemination of purely objective data and established facts, such as legislation or scientific findings. Information can be given on an individual basis to visiting clients, can be group-oriented or written down in leaflets, brochures, articles in periodicals etc. The information should be continually kept up-to-date and checked for possible changes.

COUNSELLING on the other hand can never be objectively checked. It depends on the professional skills of the aid worker, who provides his client with a range of alternative solutions for a specific problem. Each single solution is presented as clearly and objectively as possible, so that the client can make his own choice. An additional aspect, typical of the alternative circuit of centres, is that the client's own choice is then supported all the way, irrespective of the personal views or moral standards of the aid worker. If necessary, the client can also be supported beyond the existing legal framework. Counselling sometimes amounts to no more than one single interview, during which the client is referred to a more specialized centre. But it can also evolve into a longer-term commitment within the centre, not even excluding the therapeutic approach when sufficiently trained staff is available.

The third mode of functioning within a JIAC is called SERVICE. It boils down to practical aid : the provision of material or any other means of implementing the goals.

The fourth and final mode of functioning is ACTION. It wants to complement the purely individual approach of the three former modes. Especially in those cases where the cause of the problem does not so much lie with the individual as with the whole of society, ACTION striving for legal reform or attacking the root causes of the problem, is more appropriate than the solution of each case separately.

The four lines of approach are complementary and it is very hard to maintain a clear separation between them, as one mode may merge into another in the course of the aid-providing process. Some examples may help to clarify these theoretical reflections :

EX.1 : Not wanting to become pregnant, a girl drops in on the JIAC to inquire about the existing modes of contraception and their correct use. She is granted an interview and can be handed a brochure or another written text. This we call INFORMATION.

EX.2 : The girl has chosen a given contraceptive and asks for help in obtaining and using it. Depending on the centre's own capabilities, she receives instant socio-medical aid or is referred to a more specialized centre. This is a borderline case between INFORMATION and COUNSELLING.

EX.3 : The same girl appeals to the Centre for help with an unwanted pregnancy. She is offered a range of alternatives : giving up the child for adoption, marriage or relationship with the biological father, bringing up the child on her own, abortion, etc. The girl chooses one of these solutions and is then supported throughout the practical implementation. This is a clear example of COUNSELLING.

EX.4 : The Centre itself provides the contraceptives. This is SERVICE.

EX.5 : The Centre tries to raise the awareness of the public and/or of the politicians so as to widen the availability of contraceptives or to effect specific legal reforms. This is ACTION.

The four different modes of functioning are clearly complementary within a JIAC's overall activity and cannot be separated. That is the reason why any artificial separation or even opposition between the different modes is counterproductive or even fatal to the overall effectiveness of a centre. It is important that each mode of functioning should be constantly adjusted to current developments so that the young can always be helped on a sound professional basis.

An Additional Challenge

Present-day society is growing more and more complex structures at an increasing pace and makes ever growing demands on the knowledge of both the young and their aid workers. The latter are finding it harder and harder to keep abreast of the new developments and to exercise a measure of control.

The general informative needs of the young keep expanding, while the social structures through which these needs arise, are subject to continual adjustments and modifications. The specificity of youth work may well be threatened in the resulting competition with highly specialized aid-providing centres.

On top of this general trend, a so-called "computer culture" is emerging, coupled with far-reaching scientific and technological mutations. This, however, can also be seen as an additional challenge for the development of new forms of social aid and action.

Consequences for the Methodology of Alternative Aid.

In a number of countries and organizations the prevailing model of alternative aid is still predominantly based on ideas about a series of youth centres founded some 20 years ago. These centres, known in the UK and in the Netherlands under the names of RELEASE and JAC (Youth Advice Centres), have found followers in most other western countries. These centres started from the premiss that the problems of the young were not only individual, but were also linked to their weak position in society. They therefore concentrated on an improvement of the young's social position through the provision of low-threshold aid , made easily accessible by working anonymously, free of charge and with unorthodox opening-hours adapted to the youngs' leisure.

The initiators wanted to turn the aid into an instrument for raising the political awareness of the young. Helping individuals was for them linked to the improvement of society. Their opponents objected that the young were all too often made to rebel against parents, families and society, and that they were simply being used for the realization of the objectives and ideals of the so-called aid workers. The centres themselves did little to counter these insinuations ; on the contrary : they were chiefly courting publicity by spectacular campaigns centering on drug users, runaway youths and other marginal groups. The methods they applied were not always subtle and were not explained to the public at large. We even feel that the help they offered was occasionally poorly improvized.

The methodological and professional approach was suspiciously shunned as belonging to the established forms of aid and therapy. As a result, the quality of the aid remained dependent on the qualities of each individual aid worker. This was partly due to the fact that internal developments, which in fact had never discontinued within the youth centres, were carefully hidden from the outside world, lest they should be lumped together with the establishment organizations. The centres have always defined themselves in clear opposition to the other aid services for the young, and have done too little to explain how their aid is defined and which dilemmas play a role in this definition.

It is high time that we should lift the taboo that still surrounds the subject and put aside all preconceived notions. In the early days of alternative aid it may have been perfectly logical for more emphasis to be given to the mentalities and attitudes of the aid workers than to their professionalism and competence, since aid was still to be freed from its moralizing and patronizing straitjacket. The young were to be supported in their struggle for greater freedom ; aid workers themselves had to be vigilant, lest their work should be turned into yet another instrument by which bourgeois society would instil its values into the young.
But opinions have changed considerably since those early days : the present-day

Youth Information and Counselling Centres (JIACs) pay rather more attention to the background and causes of their clients' problems.

Their basic philosophy of aid work acknowledges two aspects :

- firstly, aid to the young seen as an underprivileged group. This calls for emancipatory action;

- secondly, aid to young people who are seen to have problems with the "system", i.e. their past and present living conditions.

The alternative aid workers have initially overstressed the first aspect. A number of corollaries have nevertheless retained their relevance to present-day aid work, such as the six selected below :

- the young client is the only one in charge of the aid process;
- his autonomy is sacro-sanct;

- the aid worker opts for a horizontal approach, i.e. : he must communicate his analysis of the problem to his young client and shall never take a decision on behalf of the client, since the ultimate aim is always to raise the client's awareness about the steps to be taken;

- the aid worker must be familiar with the "system", i.e. the past or present living conditions of his client;

- he must have a working-knowledge of interactive patterns and methods of crisis intervention;

- he must be aware of his own limits, as his shortcomings and capabilities strongly affect the aid process.

All this implies that high demands are made on the skill and competence of the aid workers in the Youth Information and Counselling Centres. It is therefore all the more surprising that so little explicit attention is given to the subject. This is probably a relic of the early days, when competence and methodology were thought to clash with total acceptance of and absolute solidarity with the client. If, however, the centres give precedence to the provison-of-aid and if the above-mentioned insights are applied, then the analysis of the call-for-aid by the aid worker becomes the starting point of the aid. Solidarity with the client, which starts exclusively from the call-for-aid, is then no longer the only starting point.

It cannot be stressed enough that no decisions should ever be thrust upon the client, which is impossible without communicating to him one's own analysis. This calls for a total acceptance, not only of the client's personality, but also of one's own responsibility as an aid worker. If absolute solidarity with the young client is no longer as commendable as in the early days, the horizontal approach, as sketched above, remains essential at all times.

Recent methodological developments, specific to the function of the Youth Information and Counselling Centres, have focussed attention on the following topics :

- The importance of the first interviews. A preliminary aid plan is drafted, in which arrangements are made as to the future course of the aid process. It is not only important to find adequate solutions to the client's problem, but also to integrate these solutions within a horizontal approach.
- The importance of the "system". The aid worker must acquire sufficient knowledge of the living conditions of his client and of the background of his problem in order to attain an adequate degree of empathy.
- The importance of communication between the aid workers. The aid worker in a Youth Information and Counselling Centre is often left to his own devices. He himself decides when to ask for the advice of his co-workers and tends to frown upon any interference by third parties : intervision and supervision are all too often optional functions. Yet, every aid worker should be made accountable for his work, and his aid plans be regularly checked and adjusted under competent supervision.
- The importance of work supervision. The quality of aid work can only be upgraded, when the aid plan can be discussed with a supervisor, not only with regard to practical and material aspects, but also with a special eye on content and attitude. Yet, up untill now, only a very few centres have set up a separate function for supervision and/or coordination as regards content.

Conclusion

All the above aspects of methodological development and increasing professionalism within the present Youth Information and Counselling Centres, are equally relevant to the four basic functions, viz. information, counselling, service and action. It would be absurd to exacerbate the existing tensions between these four basic angles of perspective. A further exploration of their potentialities and a common effort to upgrade the quality of work is the only guarantee of a continuing expansion of the aid sector as a whole and of all the centres dedicated to this basic philosophy.

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Notes

1. The Malay work 'amok' is used in Dutch, meaning : "frenzy, trouble-making", compare the English expression "to run amok".

2. VZW = "Vereniging Zonder Winstoogmerk" or association without purpose of gain.

3. Counselling : rendered in Dutch as "advies", compare English "advice".

INSTITUTIO DE APOIA A CRIANCA

Manuela R. Eanes

The "instituto de apoia à crianca" (children's support institute) is a private institution for social solidarity. This non-governmental organization was set up in 1983 by a group of people from various political and professional backgrounds and includes doctors, professors, psychologists,... Their main objective is to contribute to the development of children by defending and promoting their rights.

The institute's interventions are basically aimed at defending the rights of the child as a person on its way to adulthood, a person whose social, cultural and educational rights and priorities are yet to be established. Compared with the other children's rights organizations in the private sector, the institute is rather modest. Nevertheless it uses all power within its means to sensitize public opinion and to make people combine their efforts in order to find concrete answers to the problems of the Portuguese children.

Socio-politically speaking, setting up an educational plan for normal and disabled children seems impossible without the active and wholehearted cooperation of the community. That is why the I.A.C. makes great efforts to promote the involvement of parents, families and the whole of the community. Another important part of the organization's energy is taken up by the orchestration of public and private initiatives. This method of working has proved very successful in the past.

The I.A.C. imposes itself as the children's interlocutor and representative, who wants nothing else but to support and to valorize the work of those who foster the living conditions of the children.

As we have mentioned already, the main objective of the I.A.C. is to contribute to the development and the welfare of the children, by defending and promoting their rights. To achieve this goal, the organization uses :

- information and sensitization programmes ;
- education and propagation programmes ;
- direct interventions in those areas where none of the other organizations operate ;
- contacts with national and international organizations with similar objectives.

As to the direct interventions, the I.A.C. has given priority to those areas where neither the authorities nor private organizations had initialized any projects. It was also the I.A.C. that set the example for a campaign to increase the public's awareness of the problems of battered children. This campaign started in Lisbon in 1984 with a seminar, the theme of which was : "The Portuguese child, what are its rights ?"

The task force that studies the problems of battered children is not the only one. Other groups as well are launching new initiatives :

- the task force for ludic activities and animation is trying enthusiastically to awaken people to the importance of ludic activities in the physical, psychological and social development of the child and of the formation of playground instructors. At the same time they would like set up a number of local ludotheques.
  One of the greatest achievements of this group has been the introduction in Portugal of the Declaration of the Children's Right to Play (a declaration of the I.P.A. - International Association for the Children's right to play)

Representatives of the institute, along with members of the above-mentioned task force, attended the Third International Ludotheque Congress, which was held in Brussels, in May 1984, and more recently they took part in the Stockholm Congress.

- the task force for coordinated action in the deprived quarters makes a strong appeal to the several community services so as to convince them to support a joint effort of all cultural and recreational organizations, both public and private, that are active in the parishes.
  Some volunteers together with the final year social welfare students are interested and support the initiative.

- the task force for the humanization of hospitals has set itself the goal of creating a more comfortable and pleasant atmosphere in the pediatrics ward. An initial step in the realization of this project was the opening of two special rooms in the Sainte Marie hospital in Lisbon. The group is now looking for financial support to start similar projects in other hospitals.

- besides a bulletin, the documentation and publication service is planning to publish a number of works such as the "Guide des Droits de l'Enfant" (the Children's Rights Guide).

In addition to these task forces, which all function on a regular basis, other initiatives can be mentioned :

* participation in 1986 and 1987 in the International Conferences of Non-governmental Organizations from the Portuguese-speaking countries, the Isles of S. Tomé and Prince and the Cape Verde Islands.

* the organization of several seminars, the most recent of which on the problems of drugs. This seminar enabled us to make a survey of how these prblems are dealt with in Portugal.

* participation in the children's theatre festival, the chilren's film festival, and the children's literature festival in Portugal.

In order to assure itself of international support and cooperation, the I.A.C. has contacted several organizations from abroad :

- the "Van Leer" foundation
- the "Aga-Khan" foundation
- the University of Winnipeg-Canada
- the "Petite Enfance, Parentabilité et Sociabilité" association, which set up "La Maisonnée"
- Terre des Hommes

Another project, which is scheduled to start by the beginning of next year, is called "S.O.S. Enfant". A multidisciplinary team will provide a helpline for children who are living in the worst of conditions.

Most of the work is done by experts from various professional fields, who put their zeal and their experience freely at the I.A.C.'s disposal, in order to help our children grow up in a dignified and worthy way.

Study of the Child

The children's rights movement is becoming more and more conscious of the importance to gain a clear insight into the perception, the wishes and the thoughts of the child. In this field, our knowledge is still extremely limited. Indeed, when you consider the socialization of children as a process of learning how to behave as an adult and how to adapt to society, research will be centered upon what the child is or does in everyday life, as far as this is related to the proposed pedagogic purpose. Until the researcher will have learnt to understand the universe of the child, as seen by the child itself, he will not be able to make a substantial contribution to the development of a framework for the rights of children, which takes into account the needs of children as well as the wants of our society. We therefore believe that the study of the perspectives of children themselves is the most valuable contribution to the support of the conceptual development of a framework for rights of children, which would be based on rights instead of needs.
During the congress, Nicole Vettenburg did the account of the working group on this subject (chairman Prof. Dr. L. Walgrave). She introduces the various contributions.

INTRODUCTION

Nicole Vettenburg

This working group has been planned around five contributions, each of which focusing on a particular aspect of research on children. A recurrent theme, both in the contributions and in the discussions, is that the typical nature of the child should be taken seriously 'here and now'.

In the first contribution, Bouverne-De Bie, demonstrates that research on children can help shape youth welfare policy. She illustrates her case with three recent research projects. The ensuing discussion is one on the tensional relation between what youth welfare policy provides and what youngsters expect from it, and on the possibilities offered in the socio-cultural programme 'werkende jongeren'. In this project, the youngsters showed anxious to learn, but not in the conventional, prestructured way. As far as formation is concerned, a clear distinction can be made between three different forms, each producing its own effects :

- the alerting to the socially and culturally deprived situation, with reference to structural impediments, which produces a sense of powerlessness with the youngsters and results in a refusal to try and remedy their problems themselves ;
- the alerting to their lack of assertiveness, combined with opportunities to increase this assertiveness ;
- working and searching in close cooperation with the youngsters, so as to enable them to define and shape their own situation.

This was the moment where a choice had to be made. The main element determining this choice was the participation of the youngsters. This gave rise to a lot of problems : the priorities set by the government did not coincide with those of the youngsters ; the cooperating organizations tended to take control of the process ; and last but not least, there was the problem of compartmentalization.

Moreover, the youngsters turned out to refuse to come to the organizations for fear of being labelled socially and culturally deprived. The discussion emphasized -as it had already been mentioned in the introduction- that a welfare policy can only achieve its aims through a general approach, not through a categorical one.

Bleeker and Mulderij pay special attention to the methodological aspects of research on the child's perception of its environment. The prerequisite of getting to know the child's perception of its environment better is that the 'here and now' situation of children is taken seriously. With a practical exercise Bleeker and Mulderij demonstrate to the audience that childhood memories can provide valuable research material. So can the compositions or correspondence of children, as well as the experience of adults who take part in the games of four-year-old children or who go out on the street to spend time with children. However, knowing the interests of children in one thing, defending them is another. Researchers structure the material gathered in recurrent themes. According to these researchers, the defence of the interests of children, i.e. giving recommendations based on research, will always be a problem, for these recommendations do not emerge from the research project as such. The represent the moment of creativeness of the researchers. This also points to the need for a clear definition of the researcher's ideas on what he finds "childworthy".

Furthermore, it was noted that children are presently too sharply monitored in their games. The question which immediately follows from this finding is to know whether research on the home environment does not add to this situation. The researchers feel that this is not the case. At the moment, the children lack the necessary room. Once it will be there, the children will fill it up themselves.

In the third contribution, Vriens presents the results of a research project on the child's perception of its environment in matters of peace and war. There are divergent opinions on the question whether or not children should be informed about these realities. The speaker feels that the adults should adequately equip the children so as to enable them to see reality as it is. Using slides of drawings made by children between 6 and 12 years of age, Vriens outlines the child's culture of war and peace and the changes in this notion as the child grows older. There are striking differences between boys and girls ; these differences are best perceptible between the ages of 8 and 10 : girls generally opt for peace whereas boys of the same age put great store by war and the technical aspects of it. After this fascinating and colourful introduction, there was no time left to discuss the matter further.

In his introduction, Geurtz advances that educational theory is a paradigm in a crisis situation. Traditional education is aimed at results in the future. However, as this future is becoming less and less bright, it cannot inspire any positive feeling. Since we ourselves are responsible for this educational idea, we can also do away with it and set a new goal : 'the optimal relation at this moment'.

The question arises whether socialization to a specific role is a hare-brained scheme of man. Geurtz distinguishes between socialization as a natural proces (in order to survive, i.e. "care") and socialization to norms and values, the latter undoubtedly being a fabrication. Furthermore, it is asked whether rejecting traditional education is not running away from the problem. Opting for the new paradigm is not an escape from one's responsibilities. It means that parents re-adjust themselves to the changing educational relation between the parent and the child and that both have better opportunities for unfolding.

In her contribution, Fox uses very convincing material to demonstrate that the authoritative historical studies of Aries and deMause made people wrongly believe that children used to be considered miniature adults. This led to the misconception that children were deprived of any rights in those days. Recent research projects have refuted these findings. Yet Fox deplores that this criticism and these reconsiderations do not make themselves felt in present-day research on children's rights.

Jan van Gils (Belgium) wonders wether children nowadays have still time of their own. He looks for research material that may provide an insight into the possibilities of children to plan their time. A lot of research appears to have been done on the time budgets of children. However, little information seems to be at our disposal concerning the children's perception of their own continuum, of their own time awareness and time management, in other words, about the way they experience time.

THE POTENTIAL CONTRIBUTION OF RESEARCH TO THE DEVELOPMENT OF A YOUTH WELFARE POLICY : A RECONSTRUCTION

Maria Bouverne-De Bie

This contribution tries to examine in what way research may contribute to development of a youth welfare policy. As such, this text is based, among other things, on research, partly conducted by us [1]. Youth welfare research is often organized ad hoc, in other words, in response of a particular problem which needs to be solved. This also holds true, to an important degree, for the research presented here. The research was in each case based on the opinion that :

(a) the youth policy was the object of the research;
(b) the researcher should stand within the process of policy making.

1. The notion of 'a bonus for an offence' as the starting point for a youth welfare policy.

It is not unimportant to indicate in advance that what we may describe today as a 'youth welfare policy' is historically embedded in poor relief and criminal law. The attention authorities paid to the development opportunities of children and youths, took shape quite gradually and it was directed very selectively to the neglected and thus potentially delinquent child. The fact that child protection originated in all Western countries more or less at the same time, together with other social services with respect to youthful persons, shows that it is especially the children from lower social classes, who are paid attention to [2].

The first Belgian Youth Protection Act (15 May 1912) regards judicial intervention as the framework for offering legal educational support. This educational support is linked to a claim on and correction of parental authority (deprivation of parental rights, removal of the child from the parental environment). Child Protection could act if the family was failing. In other words, what De Bock calls the notion of 'a bonus for an offence', is put into practice. Assistance is joined to the occurrence of non-desirable behaviour. This induces a norm-reinforcing effect. De Bock also points out that the term 'socially maladjusted youth' was extended, as a consequence of the ever increasing number of assistance interventions, viz. from 'youthful delinquent' (in the strict sense of the word) to 'youths with socially non-desirable behaviour' ("pre-delinquency" Act (15 May 1912)) over 'endangered youths' (Youth Protection Act

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(8 April 1965)) to 'culturally empovered youths' (cf. the principle of permanent education) [3]. In other words, an actively social and cultural participation is expected as a norm, next to socially non-disturbing functioning.

To put it differently : linking assistance to the occurrence of non-desirable behaviour is extended to the linking of counselling and education to the stimulation of desirable behaviour. The policy's attention towards children and youths is selective. Today too we can find that well determined youths are characterized by their social vulnerability, i.e., the risk of a particular section of the population to experience negative effects when entering into contact with social institutions [4].

The youth welfare policy is, as a consequence of this selective attention, caught in a fundamental discrepancy between the so-called sectorial and categorical approaches. Intrinsic attention for the development processes children and youths experience, requires that attention is also paid to the development possibilities in the various sectors where youths are growing up. In other words, paying attention to youths encompasses all interventions and regulations interfering with their situation. In this respect, a youth welfare policy is part of a general welfare policy, across the various sectors, including welfare work. This is the sectorial approach.

The categorical approach, on the other hand, directs its policy towards youths as a specific stratum. The Dutch Social and Cultural Planning Office poses that "a social category enjoys much specific policy attention when laws, other rules and services exist specifically for that category, when a relatively large amount of money circles in those services and when this category is deeply rooted, as a policy object, in government organisation [5]. In practice, however, a youth welfare policy is often understood as a synonym for the latter approach : a youth welfare policy is then narrowed to a police of youth welfare services, with youth protection as the prototypical model.

2. The call for a new working method, or : constructing a different socialization offer.

The notion of 'a bonus for an offence' is directive for an analysis of the Flemish youth welfare policy. On the one hand, it points at the delicate tension area between the actions of youth welfare services and the promotion of youth wel-fare. This is the case because youth welfare interventions are highly specific [6] and because a welfare increasing effect cannot be expected just like that. On the other hand, it points at the danger for an increasing as well as spreading inter- ventionism.

The latter did materialize in the factual evolution of youth welfare services, as is evident from the legislation implementation with regard to child and youth protection as well as the number of youth services which have kept growing since World War II. This induced high costs in the sector of youth protection, not in the least because of the increasing number of children, placed out of their familial environment. The call for alternative working methods, such as, e.g., preventive social action and educational support led to their integration as potential measures in the new Youth Protection Act (8 April 1965). However, the desired result did not materialize. On the contrary, the number of placements was still increasing [7].

Mid-1972 the so-called 'Mons and Dendermonde Experiments' [8], spurred by the Minister of Justice at that time, were set up. They had to investigate the possibilities of further preventive social action and help develop the methodology of educational assistance.
These experiments, incorporated in the field of action-research, pointed at the necessity of developing a basic vision, which focuses attention on the interaction between the various agents involved in a situation and on the meaning conveyed by each of the agents on the problem situation. The youth, his family as well as the youth protection service were considered to be the parties involved in the problem situation. This is, in our opinion, the significance of the Dendermonde Experiment : an integrated approach was elaborated and structured by regarding the youth protection service as a co-operator, a co-agent in the problem situation. From there on, all the youth protection services of the district involved, were brought together in a steering committee, which made it possible for them to reflect jointly and systematically on their action and on the significance of their distinct roles. This resulted, among other things, in a non-intervention effect. The public prosecutor started dismissing faster and more often. It also provided insight into a broad network of meaningful agents, and action programmes were undertaken towards schools, public centres for social welfare, educational advisory centres, police and state police, prisons, employers, etc.

The Dendermonde Experiment led to a deepening of the initial concept of 'a bonus for an offence ' : if educational assistance was to be disconnected from social control [9], it would become necessary to construct an alternative socialization offer. One should be able to depart from the opinion that focuses on the reciprocity of the socialization relation instead of on the external purposiveness or the desired finality of the education process.
Educational support too is disconnected from its predetermined finality (desirable conduct) and is instead linked to the parents' and children's right to social assistance. Approaching children as legal subjects implies the development of a fully fledged legal position for children, a.k.a. the 4D-programm : decriminalisation, diversion, due-process, deinstitutionalisation [10].

3. The discrepancy between offer and reach : a broader tension area emerges

One might have expected the highly exemplary character of this youth protection debate on various grounds, e.g., by referring to the paralel development of child and youth protection and other related social services. The exemplary character of the youth protection debate would also emerge empirically from an investigation into the broader setting of youth work, viz. work in socio-cultural education with working youths '1. The concrete problem, which called for investigating the working youths, was the recorded discrepancy between offer and reach. As it turned out, few youths or even none at all were reached by the education offer. The why apparently referred to the same causes as those responsible for the marginal situation of these youths : a low aspiration level, limited educational stimuli from the social environment, a chiefly conformistic attitude. Moreover, a cumulative effect was also found : those groups whose educational situation was least favourable, showed, in general, the least interest for additional education opportunities. Voices were heard in favour of making the offer compulsory - which has been partly realized in the meantime -, as the found non-participation is of a structural nature and the youths concerned are not aware of their entitlement to education and training, nor of the importance of exercising this right.

Again, it is quite important to indicate that these 'working youths' are often the focus of youth welfare services and research. They constitute a separate group in youth protection, as well as in the so-called youth subcultures research. Delinquent forms of youth subculture would mainly occur with working-class youths; delinquency is also the sole subcultural tradition for which a permanent corrective system is operational '2.

In other words, the notion of 'a bonus for an offence' turned out again to be directive for the analysis : the found non-participation was not to be considered a 'working youths' problem' but a policy problem : an (unintended) effect, related to the way in which the policy intervention is materialized and perceived. From there, the investigation would hold a reconstruction of the way the various agents bestowed significance in the situation concerned. This reconstruction ran through various partial investigations, viz. an analysis of the governmental policy (via a morphological, a historical and a judicial examination), of the education services vis-à-vis the working youths (via open interviews and a content analysis of their magazine), and of the prospects of the youths in question (via a so-called catchword inquiry).

Following the comparison of the various projects, a central tension area emerged between, on the one hand, the working youths as an inevitable participant in a learning process, prestructured by the government policy and the worker in socio-cultural training, and, on the other hand, the emphasis laid by the youth himself on freedom, taking responsibility, taking pride in one's actions ... and the limited space available to this end. The following is also of fundamental importance : the working youths stated that they were not able to function well from a self-respective attitude, but only when they could meet the conditions by which rights might be granted to them. Thus, the investigation is indicative of the importance of a process-wise approach of the situa-

tional underprivileged : through the educational and/or assistance offer is expressed how the person concerned is thought of; in other words, a relation is determined.
The research is also indicative of the impossibility of interpreting behaviour seperately from the concrete social position of the people involved, i.c. the working youths, the way they interpret their position, and, the changes in their situation. An impressive lack of socio-scientific knowledge '3 has emerged regarding these questions.

4. Setting up a youths rights project : the problem is sharpened, more questions for the assistance services.

The youth rights project Vlonder, set up in a subsequent phase of the investigation, followed naturally out of the Dendermonde Experiment '4. The non-intervention dynamics, to which the experiment had given the initial impetus, was, within the set up of the Vlonder project, regarded as the starting point for realizing a diversion programme : a cooperation was set-up with the public prosecutor and the municipal police of Ghent. This made it possible for youths against whom a youth protection measure would normally be demanded, to be relegated to Vlonder. This way they were invited to help seeking solutions for the problem situation they were confronted with. The steering group, set up as a result of the Dendermonde Experiment, watched that Vlonder would not be considered an extension of the public prosecutor and that a potential dismissal would be given preference to a potential relegation.

Thus, the initial main purpose was intervention prevention; as such, the diversion of judicial intervention towards assistance intervention functioned as a concrete onset. The question whether the project succeeded in its non-intervention aim should be answered cautiously. This is also apparent in the reactions to the action report '5, which states that further intervention could be avoided in three out of four cases. It is also true that mainly status offenders '6 and adolescents were being relegated to Vlonder, an experience Vlonder shares with similar projects. The high discretion surrounding a diversion project, and the potential net-widening effect, emanating from it, may provide some explanations.

The Vlonder action report shows also another, and in our opinion very important factor, viz. the relegator's interpretation of the assistance as being very verbal. Even when it is evident from steering group reports that this account should be moderated, it remains important for its fundamental deepening of the problem; in what way is the assistance linked up with environmental characteristics and with potential acculturation-related problems.
This is the same question as the one we were already confronted with in the working youth research.

An analysis of the assistance as offered by Vlonder, is quite informative with regard to divers aspects. On the one hand, the assistance should make it possible for youths to contribute their point of view on their situation, which was defined as problematic by the public prosecutor to begin with. The first assistance intervention consisted in making the relegation possible; in our opinion, further guidance steps should remain limited to the level of workable solutions, that is, avoiding coercive intervention. Any additional assistance could be called in on a voluntary basis, where necessary. Vlonder also aimed at seeking possibilities for the youth to address himself directly to the youth protection services (and consequently not automatically via the assistance services).
The assistance services were also used as instruments for change and research : analyzing the concrete development of guidance in the steering group might help expliciting, that is, extending the boudaries of non-intervention. Because of this ambition, different accents are laid on, e.g., the relegation of staturory offences : the opportunity of focusing attention on the youth's environment, on his needs, and on turning these into a study object. The emphasis on the youth as an equal partner led, in the Vlonder case, to a better understanding, albeit scarcely systematic, of the boundaries of assistance; in other words, of the extent to which a social problem can be translated pedagogically.

Orientating the assistance to a workable solution made it necessary to add characteristic touches, such as the contract thought.
This can be described as the execution of assistance in consultation with the clients (the youth and his family, for the most part, and the parents, in the first place) and the assistance organization (the Vlonder project). Special attention should also be paid to analyzing the assistance services in function of its structure and its intervention method. The social worker's doings were also object of investigation. Demanding 'self reflectiveness' '7 is certainly not an easy task in the social-scientific tradition, not in the least because of the strong appeal made on assistance. An important internal tension area became manifest between, on the one side, an 'expertised' assistance, and, on the other, the focus on assistance as a relationship of mutual dependancy between various parties. As such, it does not follow that the rights reserved for the client(s) would be assumed by the assistance services (e.g. the intensity and the duration of the assistance). The manifestation of this internal tension area also indicates that, content-wise, the concept of 'a bonus for an offence' could be padded even more with the experience of assistance as a specific way of guiding. The Vlonder action report refers to this through its request for 'due treatment'-safe-guards '8.

Thus, several new research issues might have arisen and might have been elaborated. Unfortunately, this happened only to a limited extent. Several explanations are possible, such as the heavy pressure, exerted by the element of practice in action-research, the rather limited research, and finally, the project's very short duration and the uncertainty surrouding its continuation.

5. New themes in the youth welfare policy : back to a pedagogical approach of a social problem.

This very short and uncertain period of the Vlonder project constitutes a separate attention focus in the problem of the potential contribution of research to the development of a youth welfare policy. The Vlonder project, as well as the other investigation projects, was executed as a case of contract research [19]. This implies a strong policy orientation in the research order and the research report. It also carries, if not content-wise, then at least structurally a dependent position of the researcher vis-à-vis the commissioner. A short term research perspective (contract research for a year or even less are not uncommon) and a highly ad hoc character of the problem's definition and solution, result from this. The fragmentation requires contract research to link up with a broader research setting and tradition. This would make it possible to compare the acquired knowledge, and, consequently, it would constitute a contribution to the scientific theory formulation. The starting point that the policy proper is a research object and the decision on the part of the researcher to stand in the policy-making, do not signify, in my opinion, that the researcher is politically co-steering the policy-making process. However, it does mean that he co-studies the political decision process and investigates whether or not, and to what extent, his research played a part in that process.

Our experience with the Vlonder project confirmed the idea that science and politics play autonomous and highly distinct parts, not only because the prolongation of the research or the experience element turned out to be impossible, but especially because of the motives called upon, viz. the Belgian state reform. In other words, the policy fragmentation is carried on to the research level and the researcher runs the risk of acquiring knowledge that is considered relevant within the (limited) policy sphere concerned, but that is alien to the social reality as a multiformity of policy spheres and their interaction.

The successive thematic foci within the youth welfare policy exemplify that the research should always be concentrated on this multiformity. These foci show how, e.g., a 'youth welfare problem' [20] is defined, and how the various people involved were addressed. When we started up the aforementioned working youth research in 1974, that problem was then of topical interest whereas today we scarcely hear anything about it anymore. In other words, this group of youths has been steadily fading away from the topics list. The most obviuos explanation is the 1983 prolongation of compulsory education. This explanation, however, does not suffice. The prolongation of compulsory education had already been anticipated much earlier (from the end of the 50's onwards) and the debate regarding, e.g., part-time learning or specific facilities for this particular group of youths, still co-shapes, even today, the overall youth welfare policy. Closer investigation is needed to find an answer to the question why working youths have disappeared, as it were, from sight. One should certainly point at the current changes in the youth welfare services. The problematic situation of working youths was incorporated in a broader problem definition including their underprivileged situation and social discrimination. The social offer and its quality were the main points of attention. At present, emphases are different : (new) forms of youth behaviour are (again) considered problematic. The youths are approached in their specific setting, a pedagogical "youth land" that was extended and became more absolute because of various measures, taken sectorially (esp. regarding youth unemployment, income, and education policy) #1. It is the way pupils live through and experience school, rather than their dropping out, that catches sight. Motivation, truancy, and school weariness are problems in need of special attention. Attention is drawn to the large group of unemployed youths, rather than to the need for extracurricular or other training. For it is feared that they undergo their situation in a negative way to the extent that it blocks their prospects. Another variation on the same theme : the social selection procedure to the detriment of the most vulnerable, viz. the youths #2. This variation, however, indicates the direction in which solutions are sought. By analyzing the process of thematic foci in the youth welfare sector, a concrete entry is obtained for analyzing the social position of youths : how do we view their rights and duties, on whose insights and motives are they based ?

6. The potential contribution of research : methodological starting points

This is where we can locate the potential research contribution : providing an understanding of and insight into the social reality. This way the policy-making process can function as qualitatively and democratically as possible. As pointed out earlier, we chose to investigate the youth welfare policy, among other reasons, because of the consideration that "facts aren't just facts", they are co-determined by the way we turn our environment into a knowledge and research object #3. The relationship between man and his environment is not an unalterable thing, which he has to accept as a fact. Research should be able to contribute to a better understanding of the way in which whatever presents itself as a factuality, is constructed. Thus, youth welfare research implies that a concrete understanding is gained in the significant structure of action in this setting. The research should be able to describe and reconstruct this significance structure. Consequently, preference should be given to qualitative research, that is, research where the researcher of the data base does not use a (pre-elaborated) observation or encoding scheme but tries to approach the social reality, as much as possible, in the language of the people concerned. Research is set up inductively from the experience of the people involved. Various trends and research strategies can be distinguished under the broad denominator of "qualitative research" #4. The aforementioned research is also characterized by this diversity: e.g. the catchword poll and content analysis and the strong involvement in action research as a specific way of acting in the research field.

Action research is very useful to us as a research system. This kind of research makes it possible to incorporate reflection on the day-to-day reality within the pedagogical institutions, reserved for the youth. This way, it becomes possible to determine where the problems of youths, social workers and social policy run congruously. What we said earlier with reference to contract research, is, in our opinion, also valid for action research : it needs to be supplemented with other forms of research to make result comparison possible. Besides, the latter is among the important starting points of qualitative research : the research field should be approached in various ways and results ought to be compared (the principle of triangulation).

Opting for qualitative research did not happen by chance. It was motivated by the perspective on social reality ("facts aren't just facts"), the research presentation (the way in which a particular situation comes about) and the purpose of the research [25] : unlocking reality with a view to raising our learning capacity, or, in other words, taking care that a society learns to solve eventually the problems threatening its existence [26].
So, in a way, we should not be surprised, though it sure is noteworthy, that qualitative research methods are often used from self-emancipatory prospects, from the insight that the traditional development of theories, "with its interest for dominant groups, structures, processes and organizations, create an image of the historical reality wherein the individual does not recognize himself whilst he, and particularly she, are and were part of it. This has been shown most urgently for unorganized workers and for women. They belonged, and still belong, to the large social group who barely have sufficient cultural and political capital at their disposal to have their voice heard. I am inclined to add a third group : children and youths". [27]

7. By way of conclusion : current attention foci and possible projects

We have kept this survey, this reconstruction, as far as facts are concerned, very general with references to the research concerned. The researcher's task is not as much situated on the factual level as it is on the theoretical level, deepening the problem's formulation.
The current alterations in the situation and social status of youths are, in our opinion, indicative of important research attention foci :

- As was remarked above, investigation into thematic foci within youth welfare, and the way these are handled, is, in our opinion, very needed. A critical attitude should also be adopted vis-à-vis the interpretation of the research's "policy orientation". This interpretation has been regarded in recent years as an almost obvious criterion for research. Research projects should be framed within an independently set up and persevering research tradition. This is an important condition so that research should be able to grasp the multiformity of approaches and prospects.

- Neither the notion of 'a bonus for an offence', nor the tension between the sectorial and the categorical approach are unique for the sector of youth welfare, albeit that this sector is a highly typical example of this indeed. The recorded tension is more than just a subject for a welfare debate. An understanding of the structural determination of many welfare needs, as well as their fluctuating acuteness as a consequence of changing structural conditions, raises the question of a careful investigation of the task and function of (youth) welfare work, or : the question for the relation between social services and a social policy aimed at realizing social basic rights (employment, income, housing, and : social services). Understanding this relation, and the quality of the services, is a measure for the democratic content of a society : the way in which rights, mutually assigned by the citizens, are truly implemented in a constitutional state.

- The mutual dependency of people causes everyone to be in need of varying assistance to some extent #8. The setting of society's task vis-à-vis youths does not differ essentially from its task towards other citizens. A characteristic approach and handling are certainly needed, or may be needed, in accordance with the diversity of the situation in which people find themselves. However, this says nothing of the task itself.
  Very little is known about this diversity. Much research is available on youth behaviour but very little on the significance of this behaviour, i.e., an understanding that makes it possible to interpret this behaviour from these youths' concrete social position #9, the way they interpret their position, and the changes occuring within it. The scarcely available research on the experience sphere of underprivileged youths (and adults) is nevertheless indicative of a particular direction. The constant, emerging from it, is a high vulnerability of the individual, of each individual, in the socialization proces, and of population groups in the acculturation process; a vulnerability for which too little space is made available in dealing with youths and also among themselves.
  The potential contribution of reasearch in the creation of a youth welfare policy might consist in granting a vote to that mutual vulnerability, present in various forms.

Notes

1. For a survey of the investigations, carried out in the seminary and laboratory for youth welfare and andragogy, see e.g.:

   M. Bouverne-De Bie, G. De Bock, E. Verhellen, Jeugdbeschermingsbeleid in onderzoek, in : Actualités criminologiques de l'U.L.B., Brussel, 1983, pp. 7-17.

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M. Bouverne-De Bie, F. Spiesschaert, E. Verhellen, Développements actuels dans la prévention de la délinquance juvénile : d'une protection de la jeunesse vers une protection des droits de la jeunesse, Leuven, Sixièmes Journées d'Etudes Internationales de Criminologie Juvénile, 1987, pp. 285-301.

These survey articles include a wider bibliography.

2. see e.g. :

B. Kruithof, J. Noordman, P. de Rooy (red.) Geschiedenis van opvoeding en onderwijs, Inleiding, Bronnen, Onderzoek, Nijmegen, Sun , 1982.

T. Peters & L. Walgrave, Maatschappelijk-historische duidingen bij het ontstaan van de Belgische Jeugdbescherming, in : Nederlands Tijdschrift voor Criminologie, 20e jrg., 1978, nr.2, pp. 55-70.

E. Verhellen, Jeugdbescherming en jeugdbeschermingsrecht, Gent, Seminarie en Laboratorium voor Jeugdwelzijn en Volwassenvorming, Studie- en documentatiecentrum voor Rechten van Kinderen, cahier 3, 1986, pp. 7 - 65.

3. G. De Bock, De sociaal-onaangepast-geachte jeugd. Proeve tot planwetenschappelijke benadering, in : Intermediair, 5e jrg., 1974, pp. 23 - 25.

4. N. Vettenburg, L. Walgrave, J. Van Kerckvoorde, Jeugdwerkloosheid, jeugddelinquentie en maatschappelijke kwetsbaarheid, Antwerpen, Kluwer, 1984.

5. I. van der Zande & A. Scholte, Jeugdbeleid in de jaren tachtig, in : J. Hazekamp & I. van der Zande, Jongeren. Nieuwe wegen in de sociale pedagogiek, Meppel/Amsterdam, Boom, 1987, pp. 207-233.

6. regarding the marginality of general youth care vis-à-vis special youth care, see, among other things :

E. Verhellen, Jeugdbescherming. Beschermen tegen weerbarstige bescherming, in: Tijdschrift voor Sociaal Welzijn, 5e jrg., 1978, nr. 6, pp. 185-191.

M. Suykens, Jongerenvoorzieningen in de knel van het beleid, in : Jongeren in de knel van het beleid. Toenemende emancipatiebelemmeringen voor jongeren in een crisisklimaat, in : Contact, Contactblad van het contactcomité van organisaties voor jeugdzorg, Bijzonder nummer, 1983.

7. E. Verhellen, De opvoedingsbijstand in de wet betreffende de jeugdbescherming van 8 april 1965, Poging tot operationalisering voor de praktijk vanuit interaktionistisch perspektief, met wetenschapstheoretische konsekwenties, Gent, R.U., F.P.P.W. (senior thesis), pp. 125 e.v.

8. Regarding the Dendermonde Experiment, see e.g.:

   E. Verhellen, Poging tot interactioneel werken in de jeugdbescherming, Het Experiment Dendermonde, in : E. Verhellen (red.), In Interactie, Jeugdbescherming en interactionisme, Antwerpen, De Sikkel, 1978, pp. 107-152.

9. Reference is made here to the debate on assistance and law :

   L. Walgrave, Uitgeleide aan de jeugdbescherming, Leuven, Acco. 1978.

   see also :

   Dossier Jeugdbescherming, Kultuurleven, 46e jrg., 1978,nr. 9. Maria Bouverne-De Bie, Rechtshulp en jeugdbescherming, in : Dossier Rechtshulp. Themanummer Socialistisch Welzijnswerk (report of a workshop on legal aid), 1985, nr. 2, pp. 60-73.

10. Jeugd-recht-in-Beweging, Gent, Seminarie en Laboratorium voor Jeugdwelzijn en Volwassenenvorming, Werkdocument 7, 1980.

11. M. Bouverne-De Bie, L. Silon, F. Spiesschaert e.a., Marginalisering en Welzijnszorg, Werkende Jongeren, Brussel, Programmatie van het Wetenschapsbeleid, N.O.S.W., 1978.

12. D. Matza, Subculturele jeugdtradities, in : Jeugd en Samenleving, 16e jrg., 1986, nr. 8/9, pp. 483-507.

13. This conclusion is illustrative for the broader debate regarding the situation of the underprivileged.
    K. Coenegrachts, M. Bouverne-De Bie, L. Notredame, G. Van Menxel (red.), Documentatiemap Idee en concrete uitwerking van een sociaal verhuurkantoor, Studienamiddag Gent 22 oktober 1986, R.U.G. i.s.m. de Vereniging der Vlaamse Onthaaltehuizen, Berchem, 1986.
    M. Moermans, Ateljee-Gent : een stand van zaken. Naar "harde" standpunten in een "zachte" sector, E.G.-project armoedebestrijding, deelproject Gent, 1987.

14. M. Bouverne-De Bie, L. Silon, F. Spiesschaert, Preventie van de structurele marginalisering bij de jongeren, Brussel, Programmatie van het wetenschapsbeleid, N.O.S.W.,1981. Vlonder Werkingsverslag, 1983.

15. M. Bouverne-De Bie, Een jeugdrechtenproject opnieuw belicht : reacties op het werkingsverslag van Vlonder, in : Panopticon, Tijdschrift voor strafrecht, criminologie en forensisch welzijnswerk, 7e jrg., 1986, nr. 3, pp. 218-232.

16. Vlonder organised a workshop about this subject, see :

Het Statusdelict, Gent, Seminarie en Laboratorium voor Jeugdwelzijn en Volwassenenvorming, Werkdocument 10, 1982.

17. M. de Winter, De veranderende relaties tussen ouders en deskundigen, in : P. Engelen, e.a. (red.) Ouderschap in verandering, Lisse, Swets & Zeitlinger, 1986, pp. 215-227.

18. G.P. Hoefnagels, Staatsinterventie en menselijke relaties, "Le crime intime" als "publicity crime", in : Interventierecht. Bijdragen tot de studiedag georganiseerd naar aanleiding van het emeritaat van Prof. Dr. G. De Bock op 5 oktober 1984, Malle, De Sikkel, 1985, pp. 89-100.

19. The research into working youths, as well as the Vlonderproject, were executed within the scope of the National Research Programme for Social Sciences under the authority of the Research Policy Programme Agency.

    The Dendermonde Experiment, as well as subsequent research was mostly executed by order of the minister concerned.

    For the debate on this subject, see :

    Beleidsonderzoek in discussie, in : Beleid en maatschappij, February & October issue, 1984.

20. M. Bouverne-De Bie, De verdwenen welzijnsnoden van werkende jongeren. Nieuwe thematiseringen in het jeugdwelzijnsbeleid, in : Welzijnsgids, Antwerpen, Van Loghem Slaterus, 1987.

21. M. Bouverne-De Bie, Over jeugdwerkloosheid, of : de gedwongen kwetsbaarheid van een generatie, in : Panopticon, Tijdschrift voor Strafrecht, criminologie en forensisch welzijnswerk, 5e jrg., 1984, nr. 6, pp. 477 - 494.

    L. Dasberg, Grootbrengen door kleinhouden als historisch verschijnsel, Boom, Meppel, 1984 (tiende vermeerderde druk).

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    1987, Het Internationaal Jaar van de Daklozen, Antwerpen, V.D.V.O., 1987.

23. J.F. Glastra van Loon, Feiten zijn geen feiten. Een kritiek op de positivistische wetenschapsbeschouwing, in : De Gids, 143e jrg., nr. 2, 1970. (also incorporated in : J.F. Glastra van Loon, De eenheid van het handelen. Opstellen over recht en filosofie, Boom, Meppel, 1980.

24. F. Wester, Strategieën voor kwalitatief onderzoek, Muidenberg, Coutinho,

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25. A. Komter, De onmacht van het Getal. Argumenten voor een intensieve onderzoeksmethode, toegelicht aan onderzoek naar de macht in huwelijksrelaties, in: Kennis en Methode, 7e jrg., 1983, nr.3, p. 202-226.

26. N. Elias, Problemen van betrokkenheid en distantie, Amsterdam, Meulenhoff, 1982.

27. M. du Bois-Reymond, Orale cultuur en wetenschapsbeoefening, in : Pedagogische studieën, 63e jrg., 1986, nr. 12, p. 509.

28. A. de Swaan, De mens is de mens een zorg, Opstellen 1971-1981, Amsterdam, Meulenhoff, 1982, pp. 31-50.

29. M. Matthijs, Ontsnappen uit de werkloosheid, in de groep kan je nog wat beleven, in : Tijdschrift voor Agologie, 15e jrg., 1986, nr. 4, pp. 320-334.

M. Matthijs, Geld maakt niet gelukkig, zeggen ze, maar mij wel ... Over werk, werkloosheid, consumptiedwang en mannelijkheid, in : M. Matthijssen, W. Meeuw, F. van Wel (red.), Beelden van jeugd. Leefwereld. Beleid. Onderzoek., Groningen, Wolters-Noordhoff, 1986, pp. 171-186.

THE STUDY OF THE CHILD METHODOLOGICAL ASPECTS OF RESEARCH ON THE CHILD'S PERCEPTION OF ITS ENVIRONMENT

Hans Bleeker
Karel Mulderij

1. Introduction

We have been invited to this congress to present a paper on the study of the child : how can we gather information on the child's environment in a scientifically sound way ? And how can we put this information to use in the defence of children's interests ?

One should be very cautious when answering these questions. Or, to quote Beekman : "Het imponeergedrag van de wetenschapper en de riten van zijn stam suggereren verhevenheid en hoge cultuur. Meestal ten onrechte" [1]. Beekman tended to warn both his colleagues and his students not to pin too much faith on science. Let us, scientists, be modest, especially in what we say to be important for children. The scientific method is only one out of many to approach reality. It is only one of many different ways to gain insight in the notion of "children". Scientific knowledge may be reflective, critical and structuring when it is correct, but much too often it is a strongly rational and logical outlook on this reality.

If we want to map out the environment of people, in our case that of children, we have to ask ourselves whether a rational and logical approach is the most appropriate. People's lives are not solely determined by rational considerations, or, to put it in a more general way, people do not always organize their lives from a rational point of view -especially not in their relations with children-. Children consider the world much more an open field where meanings are left open. They give a much more personal interpretation of the environment, depending on the situation.

A rational and logical view of reality would undoubtedly leave us with many blancs on our children's environment map. We will have to keep an open mind: a good novel or a poem may be more valuable than scientific information. Beekman, whom we already mentioned above, would stand in front of his audience and read a poem of Sybrn Polet.
The poem was about Amsterdam and Beekman insisted that he could not imagine any scientific description of Amsterdam to be as short and as accurate as the poem. Autobiographical material can be very clarifying ; pictures, paintings, music,... all represent reality in their own specific way. We feel that none of these forms of observation should be excluded from what we call research on the

perception of the environment.

2. Starting points

We have already uncovered a number of presuppositions regarding scientific research in our introduction. Research like ours, which is specifically aimed at the children's environment, is based on the following principles :

1. Our research does not ignore the here-and-now aspect of children (present existence);
2. As children do not only have present existence, but also future existence, we try to find out what the conditions for the development of children are and where the responsible for this lies;
3. Research is carried out from the point of view that children and adults are equal.

—> PRESENT EXISTENCE

Many theories talk about children in terms of "not fully" : not fully grown, not fully understanding, not yet able to think in an adult way.
Developmental psychology is very often baby psychology or maturation psychology : a maturation from childhood to adulthood. In many theoretical works, and unfortunately in as many practical applications, development is reduced to abstract stages, to consecutive phases or difficult periods, which emphasize the discontinuity of development rather than its continuity. These stages, phases and periods may even be "frozen" :

(applied) theory starts leading its own life and children who get in touch with it, become subservient ("Is he still in his sensorimotor phase ?" or "The test shows that your little daughter...."). The value of this child's present existence is, if not denied, certainly disregarded. Langeveld describes it as follows : "Van het eerste ogenblik af dat het leeft verwijzen wij het kind naar het tweede, het latere ogenblik in zijn leven." [2]

In a sense this is only normal. The life of a child is constantly changing, it is developing towards a state of mental and physical adulthood. Pedagogic literature as well, regards children as human beings who have to be educated. What are the child's educational prospects and destiny ? The angle from which children are generally considered is the one of the future. We are not saying that this is wrong, but research on the child's environment may provide a very helpful means to obtain a better picture of their position : is there anything that contains more information than a description of the way in which children experience their world at a particular moment and in a particular place ? If science looks upon children from the stand of "adults to be" alone, it threatens them in the sense of their existence. We therefore share Langeveld's point of view that pedagogics (or should we say any social science that relates to children) has to link what is right for man to what is right for children. One possible way of doing this could be describing the child's environment, or, to put it like the American researcher Valerie Polakow [3] : "perhaps it is necessary to become anthropologists of childhood. It is the task of the adult "researcher" to uncover the existential ground of the everyday life experiences of the child and render them visible to those in power by giving them sensible actuality.

—> CONDITIONS FOR DEVELOPMENT AND RESPONSIBILITY

Equally bad as considering the children merely from the point of view of the future, is shutting the eyes to this future aspect of children. Noordam states it as follows : "Jonge mensen hebben evenzeer aanspraak op het heden als op de toekomst en alleen bij de juiste convergentie van deze rechten en aanspraken is de mogelijkheid van een goede ontplooiing gegeven" [4]

Although we set great store by present existence, we do not want to make this absolute ; the child's existence has, besides its present value, also a future value. A description of the present existence should make allowances for the fact that this existence is slowly developing. It should also include an outlook on the future : an attempt to determine the conditions that can promote this process of development. In practice, this boils down to our submitting proposals that take into account both the present existence of children and their future. We would like to illustrate this with one of our research projects on how children use and experience their home environment.

It is generally known that the conditions in which children develop differ widely; It is commonly said that "children will grow up anywhere". This may be true, but it is equally true that some places are better than others. Housing provides an excellent opportunity to point to the favourable and less favourable conditions for the child's development. There are countless examples of home environments in which children under the age of 5 simply cannot leave the house by themselves without being exposed to great danger. Think for instance about flats, upstairs flats with narrow doorsteps and busy streets.

—> EQUALITY

The responsibility of the adults becomes all the more obvious when we assume that the child's existence is equal to that of the adult's.

It is a good thing that when an anthropologist of childhood, as suggested by Polakow-Suransky, describes the child's existence in a lively way from a present point of view, he draws the attention of "those in power" to their responsibilities towards the children. We think about town planning and management experts
and professional or non-professional educators.

Our home environments are often unfriendly, yes, even hostile to children and conditioned by the adults' point of view. Provisions, or even just some open space for the children, usually come at the bottom of the list ; the interests of adults predominate. But just like adults, children have specific wishes as far as their home environment is concerned. Only children are not as fluent and as precise as (some) adults in expressing these wishes. Children experience many things, but the verbal interpretation, talking about it, is sometimes very difficult, and in some cases even impossible (for very young children, for instance). But they do make it clear to us : when we are at the beach and see children endlessly enjoy the water, the sun and the sand, we need not ask if they feel happy. Moreover, a 5-year-old child would probably find it difficult to express his feelings of joy and happiness. This is where we come in. We can try to find out what the child's feelings are by describing the world it is living in. The interests of adults and children are of course not always opposed : safer roads may benefit the two categories. But sometimes things are not that simple : the planning of virtually all our green areas, for instance. They are very "park-like" and many adults therefore find them trim (neatness is an adult interest). On top of that, they are conveniently arranged and their monotony contributes to the ease of maintenance. Maintenance costs (another adult interest, in the financial sector this time) are therefore easy to assess and control.

A description of the children's activities outside the house quickly reveals that such open space planning does not benefit the children. For children, green areas are there to use them, not to look at them. They want to play football, without having to worry about dog dirt all the time, they want to sneak through the bushes, play hide-and-seek, build a cabin or drive their bicycles down a hill. All these activities are just impossible or forbidden in most of our green areas. Yet, if children and adults are equal, there is no reason for complying with the adult's demands, while ignoring the children's wishes. With the same financial means, it is possible to create a "child-friendly" open space planning : a planning that favours children, offers a wider range of possibilities and permits more variation in its use.

3. The collection of the information and its analysis

If we want to further the child's interests, we must first of all find out what these interests are. How can we collect our information in such a way that it provides an answer to our questions ? This is a problem to which science has many approaches. The branch of science that will deal with matters like these, is called methodology. By far the most frequently chosen solution is collecting massive information on a tiny little problem area. Suppose that the authorities want to make the home environment in a new estate or a renovated area more friendly to the child. They carry out random checks in let's say 20 residential areas throughout the country, and in each area they select 10 turfs, 10 streets, 10 pavements, etc. 10 days a month, 12 months a year they observe the children's doings and they write their findings down on a form. Then they code their information and run it into a computer. They can now see that children spend much more time on turfs than on pavements for instance. Another way to collect information is to send thousands of questionnaires to parents all over the country and ask them what their chilren do when they are outside. This process of collecting information is the most popular one and we call it "the quantifying collection of information" or "research after a scientific model". As this information has been collected on a small problem area with a large concentration of children, it is thought to be very reliable and therefore generalized to all children in the country.

This method of research surely offers some advantages, but equally important are its disadvantages. One of these disadvantages is that it is all rather superficial : there is no time for serious discussions with the children, the results are based on measurable behaviour. This kind of research could for instance lead to the conclusion that children like to play in small groups in the street, but it does not wonder why they do so, or what the fun of it is, or where there is still room for improvement. In other words, it is not so easy to reveal why children find important what they find imporant or how they experience this. And since this is exactly what we want to find out, we will use a qualitative instead of a quantifying approach. We will work with much smaller groups, and in depth, not just skimming the surface. Previous experience has taught us that this is also a possibility to get hold of very reliable information, which applies to other children as well. What is our strategy ? Here are some examples of recent and old research projects.

As we already mentioned, the first research project was set up to find out how children felt about their home environment and recreational facilities. The project started in 1975 and at that time we were still coping with some "fear of children" ourselves. We cautiously walked through a number of Dutch residential areas, our camera stand-by, we watched the children and made a few pictures -from a distance-. We went back home and wrote down everything what we had seen in our journal. That is the safest way of handling things : just watching, watching very closely. Nothing to it ! It can be done in all sorts of (problem) areas : at school, in the family situation, on holiday, in the community centre, on the train, there is no place where you cannot watch other people, where you cannot observe them and write down your findings. What is striking in these situations is that people tend to recall their own childhood, which helps them to understand children better. Childhood memories may be a very good source of research information and are not hard to come by. If we want to understand and to further our children's interests, it may be very useful indeed to try and remember our own childhood. Unfortunately, this is not possible for all research projects. Our present one, for instance, on the environment of motorised disabled children does not leave us this option. We now ask other people to tell us what it is like to be a motor disabled person, or we ask them to write their story. We read autobiographies of people who have experienced it personally. Yet, no matter how valuable, this does not involve the researcher's person and is therefore less direct. For a better understanding of the children, it is recommendable to reduce the distance

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between them and the researcher. This can be done with the help of a school, of the child's family, or even by a local magazine. They can ask the children on our behalf to write down a couple of lines. This technique proved very successful in our research project on the children's home environment. We read many compositions that were made in school. We told the children beforehand that there were no marks to be obtained so that their enthusiasm would not be tempered. In the context of our present research project we receive many letters from disabled children in response to an advertisement we placed in the "BOSK-blad" (association of motor disabled persons and their parents).

These are still quite safe methods of obtaining information, you do not have to go out on the field. However, the best method, in our opinion, is the direct contact with the children themselves. Down on our knees among Paul, Lisa and Tania, not to flood them with questions, but to play and to chat with them. Doing things together is the best basis for participating observation. For our research project on the home environment of children, this meant setting out to meet the children in their daily environment, building cabins with them, playing hide-and-seek or ringing doorbells and run away.

In the present research project we do our participating observation amongst others in the "Mytylschool" in Utrecht. A "Mytylschool" is a school where they provide for special education for motor disabled children. We did not what you would call sat there quietly, somewhere in the back of the class. We first asked the children, two of them each time, to show us around : they took us to the therapyhalls, the swimming pool, the playing field and the rest of the school. Soon afterwards, they invited us to join them on the playground, in the gymnasium or the swimming pool. We accompanied them to therapy and after a while we started visiting the children at home. All this gives us a very good insight in what they see and experience. We share their reality. We now might have created the impression that all we do is write everything down, or put it on tape (we also do a lot of interviews with the children) and that that is it. Nothing is further from the truth. Although this type of research is small-scale research, there is a great variety in the information we gather. Our desk becomes too small and now we are faced with the problem of how to sort out our notes. Here is where a second important aspect of scientific work starts : structuring the material gathered in a critical and reflective way. It is analysed on units of meaning. After several researchers have been reading and re-reading the material, they try to single out recurrent themes. The idea is in fact that these themes "show" from the material itself. The contents of these themes is described as accurately as possible, although a certain abstraction is made. Subsequently, the different themes are classified, they are structured -themes may go together- and sometimes a hierarchy can be introduced.

An final and essential part of the process is the counteranalysis. The researcher tries to prove that he is wrong, he looks for opposite examples, which are inconsistent with what he has found. If he finds any, this will cause a change in the themes, the structure or the hierarchy. Garfinkel, [5] an American methodologist puts it a bit more complicated but also a bit more precise : "(...) the documentary method involves the search for (...) an identical, homologous pattern underlying a vast variety of totally different realisations of meaning. The method consists of treating an actual appearance as 'the document of', as 'pointing to', as 'standing on behalf of' a presupposed underlying pattern. Not only is the pattern derived from its individual documentary evidences, but the individual documentary evidences, in their turn, are interpreted on the basis of 'what is known' about the underlying pattern. Each is used to elaborate the other".

Although the end of our story has become slightly more complicated, we are convinced that this kind of research is not reserved to university researchers alone. We briefly mentioned some methods for collecting information (without being exhaustive) and we said something about the analysis of information in research on the child's environment. This should be enough to make non-scientists see the interests of our children. Furthermore every researcher should have to apply a fair dose of common sense and creativity, something which is far more important than any methodological rule !

To end this paper it may be useful to summerize some principal aspects. In his contacts with children, the essence of research on the child's environment, the researcher should be aware of the following : first of all, he has to be willing to follow the child in anything it does, or, to quote Beekman : "Men moet zich overleveren aan de interne dynamiek van het veld" [6]. He has to be willing to meet the child -in the real sense of the word- and to share its world. What is needed is some kind of authenticity. He does not pretend, he is. Patience is important as well ; he should give children time, even if they feel like doing or telling something that is not directly related with what we want to know.

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Notes

1. Beekman, 1976, The scientist's aptitude to impress, and the rites of his tribe suggest loftiness and high culture, usually without any reason.

2. Langeveld, 1966, p. 25, "From the very first moment of its life, we refer the child to the second, the later moment of its life". Children are "betekenisverleners" in their own way. Ignoring the children's world emanating from this "betekenisverlening" is ignoring the value of present existence for the child.

3. Polakow-Suransky, 1982, p. 28.

4. Noordam, 1978, p. 68. "Young people are just as much entitled to the present as to the future, and only the right convergence of these rights and claims can safeguard the opportunities for a good evolution".
Children living in such conditions are denied many possibilities; their exploration, and hence their existence, finds itself limited. Practical proposals bear on the creation of more possibilities. In the case of the flat, this coult mean a better access to the neighbouring playing fields, and safer and more interesting walkways and balconies. These practical proposals result from the idea that they improve the child's present existence and that a child's opportunities for a good development are proportionate to the number of possibilities offered.
In those areas where children are (still) unable to raise their voice, adults are responsible for them. Housing is such an area, both for design and management. It is the task of the adults to create the best conditions possible for the development or, to use a broader term, for the evolution of

the child.

5. Garfinkel, 1974, p. 358.

6. Beekman, 1982, p. 10., "One has to surrender to the internal dynamics of the field". His attitude should not inspire awe. This is in our opinion the best way to make children see that they can be themselves. And then last but not least, he should love children. If not, he does not meet with the most basic requirement of this kind of work.

PEACE AND WAR IN THE CHILD'S PERCEPTION OF ITS ENVIRONMENT [1]

Lennart Vriens

Global problems : a pedagogical dilemma

Is peace and war a problem facing adults only, or should children be involved as well ? The opinions on this matter differ widely, both in theory and in practice. Practice first of all reveals that there are parents and teachers who feel that children should not be confronted with this problem. They argue that children are still unable to grasp the meaning of it, because of their young age or their lack of insight in intricate political processes. According to the same people, these problems play only a minor role in the child's perception of its environment, unless of course adults impose them onto the children. It is also very often heard that children must not be troubled with these global problems because they have the basic right to enjoy a happy childhood, free from any threats caused by such problems.

Secondly, there are those parents and teachers who think that children should become acquainted with reality as it is and that it is wrong to give a distorted picture of it. This point of view defends the principle that children have to determine their position in this reality first in order to be able to contribute to the creation of a better world later. Moreover, children are generally thought to be very well aware of what is going on in our world and to have a clear-cut opinion on it. Educators who support this point of view plead for instance for a more realistic peace education and take their children therefore with them to demonstrations.

Most educators are somewhere in between. They argue that children are too young for this kind of problems and that they are entitled to a carefree childhood. Concurrently, however, these educators will do little to prevent their children from being flooded with information -including threathening information- on the global situation. Television in particular plays a major part in this process, as images are rarely kept away from children. Yet, the influence of images on the child's notion of the world is definitely not to be underestimated [2]. In spite of all this, the problem has only rarely been the object of profound pedagogical studies. Hardly any attention has been given to the fact that children are regularly faced with the problems of peace and war. People apparently fail to realize that our children are living in a threatened world, that they are conscious of this situation and that they are having problems in coping with it [3]. The pedagogical arguments in this matter -as far as they exist- essentially boil down to the opinions we have just been discussing, although they are slightly more elaborated.

An educational expert like Boerma for instance argues that children are too young to understand the complexity of the problems related to peace and war. Indeed, this requires a clear insight in political and social structures, an insight which a child only acquires after a few years of secondary education. Boerma thus puts peace education in line with political information, which is only possible in secondary education when children have learnt to distinguish nuances. Political information in an earlier stage comes down to indoctrination. He justifies his point of view with arguments from the field of developmental psychology (Boerma/Abbes 1984).

Boerma's line of thinking is opposed to the ideas of Dasberg for instance, who claimed on the 1983 university day of peace that children should be made "apt to judge", which means that they should get a thourough grounding in the backgrounds of war and nuclear physics and in questions of energy and food supplies. For peace itself cannot be taught, but the knowledge to defend it can (Dasberg 1983). Furthermore there are numerous peace education projects which try to make it clear somehow or other that our world is not a peaceful world and that this affects a person's (future) political responsibility for the world. This tendency includes both polemological [4] and pedagogical approaches, sometimes clearly linked up with ideas from developmental psychology [5].

Pedagogical orientation

These opposite ideas compel us to raise the question of who is right. In our specific case, this means that we must ask ourselves whether there is a genuine barrier between the world of children and the world of adults and if such a barrier exists, we should find out what this means.

If Postman's thesis is right that television is increasingly becoming an impediment to the creation of a separate children's world, it should be no problem for children to integrate adult information into their own environment. The problem rather is that the visualized information hardly requires any abstraction or interpretation at all, and therefore does away with the need of placing the images they see in an adult frame of mind. In other words, it is not a question of children having problems with the world of adults, it is the world -and television in particular- which makes it impossible for people to arrive at a sound judgement of what is going on in the world.
But even with reservations for Postman's ideas, there remains a lot to be discussed. We may wonder for instance what ideas from developmental psychology underlie Boerma's theory. There has been massive research these last few years on the problems of children and war, respectively the threat of a nuclear war, and it was revealed that large groups of children have difficulties in coping with the fact that our world's future is permanently threatened by the arms control problem. On several occasions the mental health of the children was even said to be in jeo- pardy as a result of the permanent nuclear arms threat

[n]. And although objections to these findings may be raised -as we shall see later on- they cannot be disregarded in the argumentation from the point of view of developmental psychology.

Pedagogically speaking, we can say that it is the duty of an educator to prepare his children for the "peace mission" they have to accomplish when they will have grown up. However, the problem arises that this motive does not provide well enough a reason for upsetting the entire children's world and for undermining their faith in the future. This, in turn, works in an opposite way since it prevents children from acquiring a solid basis for participating actively in the moulding of our world and its future. In other words, peace education should be a well-considered introduction into the ins and outs of a world which has many problems, but which presents at the same time sufficient links to shape one's own responsibility for the future. This means that allowances will have to be made for what is within the scope of a child's abilities and that children must be taught the skills to tackle what is facing them.

An example of this was the "Lager Onderwijsproject (LOP)" (the Primary Education Project). This project tried to translate the problems of peace and war into conflicts and values which are familiar to children between six and twelve. It was an attempt to provide children with skills and to give them an insight in the conflicts and the values of their own environment. Later, when extended to problems of a global level, these skills and insights may prove to be very useful. The point of departure were six so-called basic differences between children and adults (Visser a.o. 1981, p.19) :

1. children live in an unequal relation, or to put it another way: "they are tall and I am small and that is not fair".
2. children have a much more limited outlook on the scope of power and fewer possibilities to change their situation.
3. children live in a confined space, their horizon stretches less far.
4. children need security to develop, their need for safety is much greater.
5. children are less independent than adults ; they cannot take on the same degree of responsibility.
6. children are dependent on adults. There is a relation of inequality between the two.

Research on children and war

It will be clear that these six points relate to rather vaguely formulated differences, which are also known in developmental psychology and that a well-considered peace education requires a more systematic and empirically-based knowledge of the children's world in matters of peace and war in the life of children. A closer look at research results on children and the problems of peace and war turned out to be a bitter disappointment.

First of all, there was much more research available on children and war than on children and peace. Secondly, there was little research which had been done in the Netherlands and the projects which had been carried out in other countries were of little relevance to the situation as we know it. Finally, international research proved to be difficult to compare and to interpret, because of the vast number of discrepancies for instance in the groups studied -they range from pre-school children to young adults-, in the approach used -from large-scale question forms to individual clinical-therapeutical interviews-, and in the nature of the questions and interpretations. In addition, many of these research projects bear hardly any relation to the direct perception of the environment of the children involved and tend to lead to questionable conclusions [7].

Yet, we can detect a common trend in this variety of research projects carried out in the culture area of Western Europe and North America [8]. This trend could best be described as the tendency of adults to find what they want to find when studying children. From 1945 onwards, research workers took a particular interest in the detrimental consequences of the war for young people. They studied both the physical and the moral harm which children had sustained in the course of "the reversal of standards". In the 50s, it was generally accepted that the detrimental effects of the war belonged to the past, except perhaps for the children of refugees (Baumert 1952). During the Cold War era, nobody obviously had questions about the possible effects of international politics on children, since no research was carried out on that specific subject. Before 1960, with the Cuban and the Berlin crises, there wasn't any research on children and their fear of nuclear weapons (Escalona 1962 ; Schwebel 1965). When these crises had passed and a detente had set in, research no longer focused on fears, but on the knowledge of peace and war and on the development of this knowledge in the minds of children. It was then that a parallel with the emergence of polemology -the science which studies peace and war to try and promote the process of peace- became clearly perceptible. Only one research project referred to the war in Vietnam (Bursterman 1973). From 1970 onwards the number of research projects decreased once again, but the creation of the peace movement in 1977 put an end to this downward trend. After 1980 there was a spate of research projects which tried to demonstrate that excessive armament on our planet has a great impact on the psychological development of children and young people and that they have great difficulty in coping with their fears resulting from the arms race in a mentally healthy way.

In recent years, there has been criticism of this type of research. Research workers like Coles (1986) and Kagan have pointed out the methodological shortcomings of this kind of research. They argue that adults tend to project their fears onto children and that they find these same fears back later in their research results. And Tizard (1986), who surveyed the principal research projects, concludes that it is high time for people to start formulating a theory on this matter. However, this theory will have to be formulated from a pedagogical point of view, since the problem itself is pedagogical. It is most important to find out "how to assist young people to become aware of the problems that threaten their future, and how to encourage them to take part in solving these problems" (p.10).

Summarizing our conclusions regarding research on children and the problems of peace and war, we can say that :

a. there is a striking parallel between what adults are interested in and what they discover when studying children.
b. much of this research is biassed and the results of it are largely determined by the research workers' ideas and beliefs *.
c. many research projects lack a proper theoretical basis and have no pedagogical meaning whatsoever. Therefore they are often nothing more than an inventory of opinions and they rarely yield any concrete pedagogical recommendations.

As far as research in this area can have political implications, it is a nasty business. Research on children and the problems of peace and war should not too easily be considered politically biassed and must be scientifically sound. If not, research findings risk being pushed aside without any further comments, which would clearly be an injustice to the children.

Researching on the child's perception of its environment : "Peace and war as a children's problem"

Our interest in a peace education entrenched in the environment of children led to the set-up of a project aimed at examining more thoroughly the children's perception of their environment. Previous peace education experiences, hitherto existing studies of children and war and peace, and our experience with qualitative research induced us to carry out a research project on what we would further on call the "child's culture of war and peace", and which centred on the child's perception of its environment. We started from the assumptions that :

1. there are basic differences between the world of children and the world of adults.
2. an isolated children's world does not exist, least of all not in the area of war and peace. Children and adults are generally confronted with the same problems.
3. children experience war and peace problems in their own way, which means that they do not necessarily refer to the same thing when they use the notions that adults use.
4. war and peace in the child's environment must be looked upon in a broader context and should not be too rapidly associated with restricted meanings

(such as the problem of nuclear arms for instance).

These premises already indicated how difficult it would be to determine the significance of war and peace in the lives of the Dutch children, since research workers had to give up their own adult views on the matter and were compelled to live the situation from within the environment of children. That is why we made use of the ideas on a concrete phenomenological analysis of the environment [10], developed at the University of Utrecht. From the information gathered, we obtained an accurate description and interpretation of the child's culture of war and peace.

Our initial question was : "What does war and peace mean for children ?". This question was subdivided into the following subquestions :

a. What knowledge do children between 6 and 12 have of the problems of the threat of war, of war itself, and of peace ?
b. What are their insights into these problems ?
c. What experiences correlate with these insights ?
d. What is the relationship between this knowledge, these insights and these experiences ?
e. How do this knowledge, these insights and these experiences develop ?

The research project involved 402 children between 6 and 12. 58 children took part in a preliminary examination, 206 in the main examination, and another 130 in 3 counterstudies. The children from the preliminary and the main examination were approached via their schools, which could be characterized as two ordinary denominational primary schools, situated in a working-class area, a Montessori school in a medium-sized town, an ordinary denominational primary school in the countryside, and a denominational Jenaplan school in a working-class area. The information on the counterstudies fell more or less into our lap [11]. The information we collected consisted of :

- compositions on the future, respectively what the world would be like in 25 years.
- pictures of war and peace.
- half-open discussions on war and peace with groups of five to seven children.
- observations made during the discussions and the drawing of the pictures.
- discussions with the teachers on the material gathered.

In the preliminary examination there were no compositions to be made. The counterstudies consisted of a report on a studycase research project carried out by a number of pedagogy students, an analysis of some 100 pictures made by Uruguayan children and a small-scale copy of the preliminary examination as it was conducted in Montreal, Canada.

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The approach

It was our aim to come to a clear picture of what children think about war and peace, how they experience these problems, and how they integrate them into their concept of the world. To accomplish this goal, we would analyse, interpret and compare the heterogeneous information we had been gathering. However, this approach was not entirely decided upon beforehand. It was determined by the course of the project as well.

We originally intended to make use of half-open discussions as an alternative to research based on questionaries -which we strongly opposed- [12] and to the unverifiable psychiatric method of research. This, however, caused an ethical problem : we could easily imagine that children would not start a real discussion with a perfect stranger on a subject which obviously evokes feelings of powerlessness, aggression and fear. Moreover, we wondered whether our project did not present a danger for the mental health of the children.

As to the latter, we consulted with the teachers involved, and it was agreed that we would make ourselves available if help was needed. In addition, we observed the children as much as possible, especially in the initial stages of the project, to see whether it did not put too great a psychological strain on them. Later on, observation became less intense, as it was clear that on the whole, the project did not increase the children's fears, but on the contrary made them feel enthusiastic and relieved [13].

To counter the problem of the children's reserve, we decided to ask them to draw a picture of war and peace. If they agreed to do so, the first contact with the project was made and their explanations of their pictures would provide us with a perfect introduction to a discussion on the problems of war and peace. But the preliminary examination already revealed that the pictures were not only a good introduction to a discussion but that they had great informative value as well. We subsequently analysed the pictures on content, style, expressions and striking features. As to the content, we paid special attention to nature, the sun and the landscape. Style was determined by the distinction between main points and minor points, the degree of completeness, the use of colours and the basic pattern. In the expressions, finally, we looked for ideas on war and peace and carefully studied the texts and the symbols. In analysing the pictures on the basis of these three categories, we tried to stick as close as possible to the meanings revealed the pictures itself or indicated by the children. So we did not try to interpret the pictures from the angle of developmental psychology [14].

In the course of the main examination we complemented our information with observations made while the children were drawing pictures and during the discussions on the subject [15]. We also added teachers' comments on the material gathered. Yet there was still one aspect we knew very little about : to what extent did these children's perception of war and peace affect their lives ? In a sense our project had raised the question in the minds of the children, and as we did not provide a suitable answer, the problem became all the more emphasized. To fill the gap, we had the children writing compositions about the future and how they saw themselves in this future. In the Montessori school, the Jenaplan school, and the primary school in the countryside, the children were not told that the compositions were part of a research project, which allowed us to measure the extent to which our information was relevant in the children's concept of the world and the future [18].

In our description we tried to combine the divergent aspects of our information to find out how children are influenced by what they learn about global problems. To that end, we asked them to draw pictures of war and peace, to tell us about sources of information and the influence they exert, about fantasies in games and dreams, about the origins of war and peace, the involvement in war and their concept of the future with their own person in focus ("when I will have grown up", "going through a war myself").

The counterstudies proved very useful to polish our views on the environment of the Dutch children. We considered ourselves incompetent to give an adequate interpretation of the environments of the children outside our culture, but striking differences in the material found, might shed an extra light upon the children from our own culture.

Conclusions

It would lead us too far to deal with all of the project's conclusions here in this paper. Our research project has turned out to be extremely successful in revealing countless aspects of the child's culture of war and peace. This culture is highly complex and results from the children's own creative talents, their education and the influence of the media. These elements are combined in a seemingly incoherent entity of knowledge, insights, experiences and moral orientation. Yet there is a kind of coherence, viz. the coherence which originates in the child who is permanently exposed to innumerable spheres of influence and who tries to integrate all these different spheres into a meaningful concept of the world and is therefore forced to reconsider this concept uninterruptedly. Integrating and reconsidering are part of a learning process which is closely related to the age of children, their orientation, and to the question whether or not their education satisfied their intellectual ambition.

From this relation we can draw a number of conclusions with regard to the development of boys and girls between 6 and 12. We shall confine ourselves to the three most important ones.

First of all, we see that both boys and girls between 6 and 12 go through three consecutive stages in determining their position on the subject of war and peace. For 6- and 7-year-old children the notions "war" and "peace" are relatively difficult to understand. They do not give much of an interpretation yet, neither in their pictures nor in the discussions. There is a tendency, however, to link peace to harmony and war to threat, but this feeling is expressed in a rather general way, for instance by drawing raindrops falling from a big black cloud. When the children do give a concrete interpretation, their own environment functions as a model. War is something like a quarrel and peace is becoming friends again.

These ideas change rapidly from the age of 7 onwards. Although war is still considered a flaming row involving an ever-increasing number of people, and peace is still the sum of friendly relations between people, children come to realize that war and peace are phenomena from a different order. At this stage there are vast differences in the assessment, the moral judgement, and the knowledge of war and peace between boys and girls. Generally speaking, boys have a positive attitude towards war from the age of 7 or 8 onwards, whereas girls are outspokenly against war and in favour of peace. Both groups conceive war in a conventional way. Peace is interpreted both as positive and negative peace [17].

From the age of about 11, another change takes place. From then on, nuclear weapons are part the children's concept of the world. They are becoming fully aware of the destructive capacity of a nuclear war. This causes boys to reconsider their positive attitude and strenghtens girls in their criticism of war. Children at this age also develop better insights into the political backgrounds of war and peace. They increasingly describe both war and peace in terms of the pursuit of power, international relations, armament and disarmament. According to the children, peace becomes hard to achieve, due to the superpowers' unwillingness to do away with nuclear weapons [18], their reluctance to discuss the matter seriously and their profound distrust of one another. This phase is often preceded by an intermediate stage combining the child's small-scale concept of its own environment with its ideas on global structures. In this stage children attribute great structural power to the world's leaders, which explains why children so often refer to them as the solution to the war problem. It is this frame of mind which lies at the origin of the following remark : "Reagan should marry Mrs Gorbatsjow".

A second conclusion is that there are substantial differences between boys and girls. Zooming in on the different phases, on orientation and perception, we find that boys and girls develop in a complete different manner. Discrepancies in the assessment of war and peace occur at the age of about 7 and continue to diverge up to the age of about 11, as if boys and girls were living in two separate worlds at that moment. Boys assess war positively, as an extremely interesting and exciting matter, whereas girls are not only ignorant of a number of exciting details of war, but also clearly indicate that they do not want to have anything to do with it. They take a much greater interest in peace, which boys labelled as dull on several occasions.

We found a number of factors which may explain these differences in the assessment of war between boys and girls. They do not play the same kind of games for instance. Boys like playing war and find peaceful games rather dull. Girls on the contrary consider playing war a stupid thing to do. And although playing war has to do with vitality and physical movement -sneaking, creeping, being visible or invisible, taking the other by surprise, etc.- rather than with war itself, the positive assessment of the game does make itself felt in a boy's concept of war. Furthermore boys are much more than girls attracted to the so-called adventurous aspect and the technical side of war. This "technical interest" of boys sharply contrasts with the girls' preference for human relations, which is one of the reasons why girls lean more towards peace than boys.

Boys and girls also look upon the matter from a different angle : boys realize that they will become soldiers later, whereas this is not the case for girls, who consider themselves rather as victims. These ideas are clearly reflected in the pictures : boys place special emphasis on soldiers with rifles, driving warfare machinery. Girls tend to identify more with the victims. Boys are fascinated by the technical side of war, girls focus on the people involved ; the scope of their pictures is less wide.

This different angle coincides with a different perception of power. When a boy is carrying a rifle, the feeling he experiences is one of strength and power. Girls do apparently not feel this need.

A final factor determining the assessment of war and peace is the child's orientation : boys are frequently guided by their fathers in their assessment of violence and war, whereas girls adopt the views of their mothers. This is particularly true for comments on television programmes, but also for the kind of games which are felt to be acceptable.

It is striking that girls use moral arguments more or less consistently to defend their point of view, whereas they are of secondary importance for boys. Playing war was regularly disapproved of by girls, because they felt it an inappropriate thing to do, taking into account its terrible consequences. Some girls even flatly refused to draw a picture of war : "War is so bad I do not even want to draw a picture of it". Contrary to the boys, the girls involved in our project found it hard to understand the motives and the justification of war. They were not prepared to reason within the logic of this system. Their judgement of war was inspired by a certain apolitical integrity from the victim's point of view.

The awareness that nuclear weapons make a "normal" perception of war and peace impossible, reduces the gap between the views of boys and girls. From the age of 11 onwards, reality shatters the image of the strong soldier leading an adventurous life. An 11-year-old boy described it as follows : "They used to fire guns and all that. But now they have nuclear bombs. And if they drop one of these, we've all had it. That's not a war anymore". The ambiguity also shows in the pictures. War involves fewer and fewer people. Either they are absent from the pictures or they are depicted as a small part of a large spectacle.

Boys also start paying more attention to the moral aspects of war and peace, which is linked to a feeling of powerlessness and incomprehension. Cynicism and resignation become regular outlets for these feelings : "These high-ups do whatever they like and there is no way you can influence them anyhow". Girls for their part make more frequently mention of grass root political power and emphasize the importance of discussing conflicts, all without being too specific, however.

A third conclusion is that our research results do not mesh with those of other projects, which argue that many of the present generation of children are afraid of a nuclear war. Certainly there are children who are afraid of nuclear weapons and nuclear war, especially among the elders, but not as many as international research suggests. Although children from the age of 10 onwards appear to take the possibilty of a future nuclear war into account, fear of the future does not predominate. In their compositions, children are often talking about the peaceful harmony of a small-scale community where people settle for what they have. A recurrent element -both in the pictures and in the discussions- was the children's concern. Concern not only about a possible third World War but also about hardware taking control of the world and causing unemployment. Concern also about growing environmental pollution. Nearly 25% of all children over 10 are somehow or other concerned about the future. For some of them, environmental pollution and war are the main threats. They envisage the future as an extension of the present and their concept of the future has little to do with the desired changes on a global level. Children are therefore more concerned with the present society than with the one to come. Concern does not necessarily imply pessimism. About 50% of the children who feel reason for concern declare themselves quite optimistic about what the future is going to bring.

Our research results have provided us with an upgraded referential framework. Fear turns out to be extremely complex, both with respect to its intensity and its contents. Fear of the future usually manifests itself in terms of concern for later life, although this is not always the case. Moreover, nuclear weapons are not the sole reason for concern. Environmental problems, unemployment and technological advance are equally important. Children react against this concern by imagining a quiet and peaceful small-scale world with clean air where people are living in harmony. Fear, in the real sense of the word, does not exclusively bear upon nuclear weapons, but also upon the end of a safe world, upon the fact of being left completely abandoned, or even of being buried alive. It seems obvious to us that the threat of war and the idea of complete destruction put children's fears and concern in a particular perspective. We did not find proof, however, to support the thesis that children are practically bound to drag along a pathological fear as to the world's future.

The significance of our research project

What does our research project mean for children and their education ? This question can be answered as follows : it is clear that children have difficulty in acquiring an insight into the global political matters which influence their lives so drastically. We see that they need the assistance of educators who help determine their position towards the several aspects of their world. Educators can help children by providing information, by making them feel more confident and by indicating a certain direction for their future. Unfortunately this paper doesn't permit us to deal with this extensively [19].

Information must be both spontaneous and systematic. Spontaneous when children look for answers to questions, systematic so as to offer them a framework in which problems can be comprehended and integrated into their own concept of the world. Especially from the age of 10 onwards, boys and girls regularly indicate that they would like to discuss these kinds of problems with their educators. It is a great pity that educators hardly ever comply with this request. Children want to be informed because they "want to know what is going on in the world", and they want to have an opinion on it.

Zeroing in on the child's wishes inspires confidence. It creates an atmosphere of sincerity and does away with the image of an adult beating about the bush. Of course, the information given should be geared to the children's age. Under the age of 10 or 11 children are little receptive to the political backgrounds of problems and they interpret information in accordance with what they know from their environment. Educators can put this situation to good use by giving children the opportunity to assess problems and conflicts at their own level and by making them feel -yet without being too moralizing-that problems and conflicts go hand in hand with establishing values, that choices sometimes have to be made and that violence is not the sole option.
This involvement of the educators gives children an indication for their future. It is in the children's interest that educators become fully aware of this responsibility and assume the resulting tasks.

Notes

1. We would like to thank drs. M. van Kempen, who did not only take part in our project, but who was also the provider of a number of essential elements for this article.

2. There is ample literature on the influence of television on the child's concept of the world. Postman for instance argues that television necessarily puts an end to the child's world concept, as it is a medium that provides information for adults and children at the same time (Postman

1982). There is more on the problems of war and peace in Van Kempen/Peek/Vriens 1986 and 1987.

3. These problems, along with the ensuing challenges for education and pedagogics have been extensively dealt with in my doctoral thesis "Pedagogiek tussen vrees en vrede. Een pedagogische theorie over vredesopvoeding".

4. Polemology is here conceived of in the way Röling described it: "the science of war and peace in a causal relation, focusing on the knowledge which is apt to serve the promotion of peace" (Röling 1981).

5. This is for instance true of the "Lager Onderwijsproject (LOP)" of the "Stichting Vredesopbouw", which tried to rephrase the problems of peace so as to enable children to understand them. Cf. for instance Visser e.a. 1981.

6. One such occasion was the "Kerngezond ?" conference, organized by the RINO (Regionaal Instituut voor de Nascholing en Opleiding in de Geestelijke Gezondheidszorg) in 1986 in Utrecht, not without first having brought the matter up for discussion. The IPPNW (International Physicians for the Prevention of Nuclear War) as well regularly organize conferences on the relation between nuclear weapons and the mental health of our younger generations.

7. This seems to be the case for Schwebel, who comprehensively examined children's and young people's answers to the following questions :
   a. Do I think there is going to be war ?
   b. Am I worried ?
   c. How do I feel about fall-out shelters ?

   He concludes that 95% of all children and young people are worried about a possible war (Solantaus 1983, p. 45).

8. These research projects have been discussed in great detail in Peek/Vriens 1985, Van Kempen/Peek/Vriens 1986 and Vriens 1988.

9. Cf. note no.7

10. It was Beekman who laid the foundations of this concrete phenomenological perception of the environment. Later, the idea was developed by Bleeker and Mulderij. Cf. for instance Beekman/Mulderij 1977 and Bleeker/Mulderij 1984.

11. One of our colleagues who is a South American political refugee and who worked at the University of Utrecht for a number of years let us have the pictures made by the Uruguayan children. He also assisted us in analysing them. The research project in Canada was carried out by a Dutch girl student who stayed there for about a year.

12. Our objections did not relate to the possible bias of such projects, but to these projects' limited contexts and their imbalanced orientation towards fear of nuclear weapons.

13. We repeatedly logged the children's need for and their enthusiastic reaction to a serious conversation. It is these same feelings we find back in expressions such as : "It feels good to talk about it with someone", or "You know what, mum, we talked about war and peace this afternoon ! It was great !" Children also regularly declared they regretted that these matters were never discussed at home.
Only once did we come across the opposite reaction. An 11-year-old girl confessed at the end of the discussion : "Now that I know all this, I'm even more scared." We informed her teacher and came back to the matter later, when discussing our material with the teacher, but he told us the girl had not given any more signs.

14. Not only are these interpretations frequently contestable, they are also too far removed from the child's perception of its environment. Our inexperience with this kind of interpretations facilitated the choice substantially.

15. It was Lippitz (among others) who pointed to the importance of the observation of a process in the course of a research project (Lippitz 1986).

16. This approach clearly revealed that research results may vary depending on whether or not the research worker's intentions are known. In compositions on the same subject, but written in a school outside the scope of our project and with a few keywords acting as a guideline (environment, work, war), these problems turned out to crop up much more often. The same goes for the compositions written in the course of the project, compared with those of children in the other schools.

17. The notions of positive and negative peace stem from polemology. Negative peace is the absence of war, whereas positive peace implies that there is something more, viz. a just and peaceful society. The word "negative" does not have the connotation "bad", it simply refers to the fact that peace is defined as the negation of another term. Negative peace is not a goal, but it may be a very valuable step.

18. We must not forget that the project was carried out before the arms talks between Reagan and Gorbatsjow took a turn for the better.

19. For more details, cf. Van Kempen/Peek/Vriens 1986 and Vriens 1988.

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EDUCATIONAL THEORY : A PARADIGM IN A CRISIS SITUATION

Jan Geurtz

About the paradigmatic incompatibility of traditional educational ideology with the striving for a fully-fledged position of children in society.

Introduction

The idea of this congress is to study possible strategies to obtaine at a fully-fledged position of children in society. The task of this study group is to examine how to give these strategies a scientific basis. The brochure of this congress even anticipated this problem when it stated that such a scientific basis would require "a different kind of study of the child", viz. "researching on the present-day insights of the children themselves and exploring the possibilities of increasing their impact on society".

In this paper I will try to make it clear that neither a fully-fledged position of children nor scientific studies of the possibilities to realise this are possible unless a drastic change in theoretical acceptances takes place. This change, situated on a very fundamental level, has to bear upon both anthropological and methodological values, which makes it somewhat comparable to what philosophers of science would call a "CHANGE OF PARADIGM".

The paper consists of three parts : the first part illustrates the notion of "change of paradigm". It contains a few concrete examples which I borrowed from SCIENCE-HISTORY. The main feature of such a change is that it does not result from an improved perception of reality, but on the contrary that it can only take place after certain observations have been ignored in favour of an intuitional metaphysical assumption.

Next, I will try to demonstrate that the deeply rooted prevailing ideas on the educational relation between adults and (their) children is not all that different from a scientific paradigm in a crisis situation.

Finally, I will try to list several kinds of observations which should be ignored in the present-day paradigm in order to be able to create a new and fruitful paradigm which does leave room for the recognition of children as fully-fledged human beings.

1. Changes of paradigm and the evolution of scientific knowledge

To clarify the meaning of "paradigm", I propose to do a small experiment. Try to imagine a rope, hanging down from the ceiling, with a stone fixed to its bottom end. Let us now suppose that this stone is moving...

If I asked each and everyone of you to describe this observation, your descriptions would have certain points in common : you would all talk about the back and forth motion of the stone, or about a pendulum motion, and perhaps some of you would add that the stone moves approximately as far to the left as to the right, but that with each motion the stone sways less and less far, so that eventually, it will stop. Those of you with a more scientific mind may have made the link with certain laws of nature, such as the relation between the length of the rope and the time needed to complete one pendulum motion.

The gist of this experiment is that in our observation the stone moves indisputably back and forth. On the whole we are unaware of the fact that this observation results from (and is determined by) a theoretical predisposition which, in turn, was deduced from classical mechanics. But a written account of this same observation, made by someone who had lived long before Newton laid the foundations of classical mechanics, clearly shows that this is the case. Aristotle [1] must have been watching time and again the pendulum motion of a stone fixed to a rope, but he placed his observation in a totally different theoretical framework : instead of a back and forth motion, he saw an up and down motion. In his theory, any material object had this "innate desire" to return to its origin -the earth- and this desire manifested itself as a downward force as soon as the object was lifted up from the earth. The very same principle applies to our stone. Its sole aim is to return to the earth but its efforts are thwarted by the rope, which deflects it from its original direction, much like a chained-up dog that moves back and forth when it pounces on the postman.

The observation that after a while the stone comes to a standstill is of primary importance in Aristotle's theory : it is the point where the stone reaches its closest possible position to earth (given the length of the rope) and where it returns to a state of rest.

It was Gallileo Galileï [2] (1632) who gave the first theoretical impetus to what later would become mechanics. Just like Aristotle, he must have noticed that the stone came to a standstill after a while. But to draw up his theory on the laws of the pedulum motion, he ignored this reality and started from a hypothesis which went counter to this observation, viz. that the stone would reach the same height on the right as its initial height on the left. This hypothesis, and this hypothesis alone, enabled Galileï to discover the regularities of the pendulum motion, which helped Newton develop the laws of gravitation many years later. And it is still these same laws that dominate our ideas on and our observation of the pendulum motion today.

The history of chemistry [3] provides another example of a change of paradigm. One of the predecessors of our modern paradigm of chemistry is the theory that the affinity of particles makes elements cohere. There were mixtures (where the different elements remained visible) and there were compounds (where the elements were no longer distinguisable). Problems arose when scientists were faced with what we now call a solution : it was considered a compound because the compounding elements (or liquids) could not be separated in a physical way (vaporization was regarded as a chemical proces). This made it look as if in some compounds the elements appeared in ever the same proportions whereas in other compounds they did not (the latter being what we now know as solutions). The theory of affinity was slowly bogged down by the problem of the inconstant proportion of elements in compounds. The paradigm underwent a crisis that lasted until the beginning of the previous century, when Dalton advanced a new hypothesis : all elements enter into compounds in fixed, unalterable proportions, and when observation suggests something else, we simply say that the substance involved is not a chemical compound.

Note that this hypothesis was beforehand inconsistent with what was then perceived as "the facts". Dalton negated this contrariety with an auxiliary hypothesis which in fact said the following : if my theory goes counter to the observation, there is something wrong with the observation, not with my theory. It will be clear that in the course of time the new theory must be able to explain the reasons for the erroneous observation. Dalton's theory thus made it possible to arrive at the distinction between chemical compounds and solutions, just like mechanics in a more recent past learnt us that the pendulum stops swinging because of the resistance of the air and the frictional resistance in the point where the stone is attached.

Perhaps some of you would now object that pioneer scientists may have been mislead, but that modern science provides accurate and precise knowledge about reality. Yet another fallacy to be dispelled. It is not inconceivable that new problems will arise, problems that cannot be solved without creating a new paradigm. Indeed, I would even go as far as to say that these problems already exist. Einstein's theory of relativity demonstrated that the laws of classical mechanics are in fact false, although this only shows at speeds that come close to the speed of light. In most concrete situations the classical laws of gravity work perfectly well as the errors in the calculation results are negligible [4]. This proves that scientific knowledge is usable not because it gives a true picture of reality, but because we believe it to be true as it provides answers to the problems of everyday life. Yet, the moment this knowledge leaves one of our questions unanswered, we do no longer accept it as valid. The same goes for the laws of modern chemistry. Ever since the revolutionary ideas of subatomic physics of the '20s and '30s gained acceptance, the classical image of atoms as scale models of our solar system, with a nucleus and surrouded by electrons, has been relegated to the realm of fancy [5]. Nevertheless, it is still very useful to represent elements and chemical compounds.

Summarizing we can say that :

- a paradigm is nothing else than a basic theoretical framework which makes it possible to come up with an explanation for a certain problem ;

- an existing paradigm is in general only replaced when it is unable to solve a specific problem ;

- the new paradigm starts from one or more hypotheses which are irreconcilable with certain "facts" registered in the old paradigm.

2. "Education" as a paradigm in a crisis situation

The publications of such eminent philosophers of science as Popper, Kuhn, Lakatos and Feyerabend have influenced the philosophical ideas on the nature of scientific knowledge [6] considerably and people nowadays agree that this scientific knowledge is just an actual theoretical representation of things, which determines the perception of reality and which, at the same time, derives its validity from this reality. It is only normal to raise the question whether or not this "circularity" applies to the perception of and the ideas on education as well. To answer this question, we first of all have to ask ourselves what we mean by "education".

Giving an answer to the question : "What is education ?" turns out to be a lot more difficult than one would think. Yet we are all familiar with the notion. Everyone of you experienced it personally, and some of you may even have found it very painful to accept its unpleasant consequences. But what exactly is "education". Educationalists more or less agree that "education" is typical for humans. It should therefore be distinguished from "care", a feature which is characteristic of animals as well. Changing a baby's nappy, feeding children, buying them clothes, acquainting them with the material conditions of life, protecting them from accidents caused by ignorance, etc., all this falls under the notion of "care" and is therefore not part of the educational process.

Then what exactly is education ? It's an "introduction into meanings", Imelman [7] says ;
It's "promoting the dialogue between the child and full reality", Ter Horst [8] claims ;
It's "learning how to function as an independent, self-responsible individual person, as a social and moral being", Langeveld [9] says ;
It's an "introduction into the social, cultural and moral world", according to Strasser [10] ;
It's "creating an atmosphere that fosters personality and offers optimal possibilities for self-fulfilment", Kok [11] says.

It will be clear that these definitions, no matter how much they may vary, have one thing in common : they link up the present aspect of education with its future result. Education is a set of acts that do not result from an interpretation of the present situation alone, they are also co-determined and legitimized by a particular view on the future. It is an aim to be pursued, an expectation of who and what a child should be when it grows up. This implies that from an educational point of view, children are approached as beings yet to be, as not fully grown, dependent and socially and morally underdeveloped.

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I already mentioned that one of the major factors that lie at the basis of a change of paradigm is a crisis situation of the existing paradigm. Is this crisis situation also noticeable in the prevailing educational paradigm, and what are the unsolvable problems that underlie this crisis ?

The major problem in my opinion is our society's changed outlook on the future. Indeed, if the educational process is dependent on a specific view of the future, it is of primary importance that this view inspires confidence and that it exerts a strong attraction, so that adults and children feel strengthened by a positive prospect in their efforts and sacrifices to become part of this future. But a positive outlook on the future seems to be the exception rather than the rule nowadays, both with adults and adolescents. The current view of the future is more and more characterized by the image of environmental degradation, social disintegration and most of all by a feeling of individual powerlessness to remedy these situations. It is this same feeling of powerlessness with respect to the future that gives an increasing number of parents the impression that they are losing grip on their children's education.

The same trend is perceptible among professional educators, notably in tutelage. The pessimistic view of the future has disastrous consequences for secondary education, where suicide rates among young people are rising steeply, many teachers are quitting their jobs, and an increasing number of youngsters have criminal records. One of the reasons for this phenomenom is that teachers can no longer engraft their sense of educational responsibility onto the parents', but the main reason is perhaps that the motivation of pupils in education basically rests on the system of a future reward. A devaluated view of the future gives rise to unsolvable problems and worsens the crisis in the educational paradigm.

All scientific paradigms, both present and previous ones, have been known to include a number of unsolved puzzles, sometimes referred to as "anomalies". As long as a paradigm is able to provide answers to an increasing number of problems, these few anomalies give little reason for concern. They are put aside for later or simply forgotten. Philosophy of science will afterwards rightly call them refrigerator-anomalies and wastebasket-anomalies.

These anomalies are also known in the educational paradigm and one of them is worth mentioning here, because it relates directly to the goals of this congress. The anomaly in question became problematic with our society's growing desire to help socially underprivileged groups enforce their basic human rights -which in theory have existed for over 40 years. Indeed, as soon as we make these basic human rights applicable to children, we conflict with the existing educational paradigm, which makes no allowances for children's rights, or at least not for rights of freedom. In our present society, the child's only rights are social rights, which means that the child cannot be denied certain services and facilities. Take the right to go to school for instance, which is translated into compulsory education up to the age of 17. Another example is the right to receive an education as it is sometimes mentioned in traditional pedagogy. Imagine the situation where parents feel it necessary to forbid the child to do something. Can the child then tell its parents that it renounces the right to be educated for the rest of the day and that it will settle for its right to muture ? Of course it cannot do so, as the right to education is nothing else than the right to be protected from pedagogic abandonment, and is closely connected with the educational duties of the parents towards their children.

What rights of freedom could be granted to children without defying the educational responsibilities of the parents ? Freedom of speech ? But the child is not completely aware yet of the full bearing of its words and will therefore have to be forbidden to speak from time to time. Freedom of action ? If the parents want the child to be back at eight, the child has to accept this. Freedom of assembly ? Only if the parents agree. But do not let me be misunderstood : I do not deny that parents usually have good reasons for disobliging their children. All I am trying to say is, that granting children rights of freedom opposes to the educational paradigm as we know it today. Granting children rights of freedom implies that, ultimately they must also be granted the right to enforce these rights if necessary, which comes down to entitling them to take legal steps without the parents' prior consent, possibly even against their parents. The main pillar of the traditional educational paradigm, however, is the virtually unlimited parental authority, which makes it inconceivable that this authority can be broken from within this paradigm. That is why in our present-day legislation deprivation of parental authority is only possible after the educational process has completely gone off the rails, i.e. when one cannot talk about an education anyhow.

Summing up, we may say that a fully-fledged position of children in society is impossible unless, in addition to their social rights they are granted rights of freedom as well. These rights, however, are flatly opposed to the educational duties of the parents, and these educational duties take their ultimate legitimation from what makes up the core of the prevailing educational paradigm : the immatury of children.

3. The paradigm that considers children to be fully-fledged

The impact of the existing educational paradigm on our ideas on and our perception of educational reality is apparent from the fact that we actually do regard our children as dependent and irresponsible and that we feel that it's only normal to do so. Yet, we should bear in mind that when Copernicus [12] launched his heliocentric theory, which promoted the sun the centre of our solar system, his contemporaries also felt it only normal to qualify him as utterly mad, as observation left no doubt that the sun moved round the earth. If we want to set up a new paradigm for the relation between children and ex-children, it is imperative that we should rid ourselves of this vital perception of the irresponsible, immoral and foolish child, a perception that makes "common sense" the standard of the existing educational paradigm.

What are the consequences for the relation between parents and children of this new paradigm which considers children as fully-fledged humans ? First of all, it should be noted that the new paradigm does not change the relation of "care" between parents and children. This means that parents will prevent their two-year-old child from eating up all biscuits, that they will not allow their eight-year-old child to watch a traumatic horror movie, and that they will make sure that their forteen-year-old boy does not go hitchhiking all the way to Italy by himself. By replacing the educational paradigm with the new paradigm, the possibility to judge children's desires negatively does no longer exist. What used to be objectionable shortcomings of the child in the old paradigm (stealing biscuits, being unreasonable, lying one's way out of a difficult situation,...) have now become legitimate expressions of the child's typical nature. Like every other human being, a child has the inalienable right to express itself and to act in accordance with its own convictions, its motives and its feelings.

Should we then, from now on, leave it to our children's discretion how they satisfy their needs ? Of course not, because even in judicial matters between adults one very important rule must always observed, i.e. that the others have the same rights as we have. The right of freedom is curtailed by other people's right of privacy : you cannot simply walk into someone else's house. Freedom of speech is restricted by other people's right of personal integrity : you cannot call someone all sorts of names in public. In brief, there must always be a balance between the use of a right and the consequences of this for the rights of others. From this point of view, parents do not have to consider the stealing of biscuits a morally condemnable act, but an act that harms the other members of the family (as the biscuits are to be divided among them proportionately). Parents can try not to be too hard on their children when they turn out to have been lying, an act which has given good reason for moral indignation and condemnation in the educational paradigm (though adults as well make frequently use of it in social life). The parents should not forget, however, to point out to the children that lies may compromise their credibility and self-respect.

The punishment of children, in traditional education often applied according to the principle of operate conditioning and thus as an instrument to correct behaviour, is absent from the paradigm of maturity. Instead, there is the principle that children as well can be made responsible for the consequences of their conduct, depending on how much the child can take and to what extent it could have foreseen these consequences.

Finally, the parents' responsibility to take care of the child will always give them a certain influence over the child, but this influence will diminish as the child grows up and the parents will increasingly have to account for their

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decisions.

It is evident that in this paradigm as well the parents' attitude is determined by an aspiration ; but they do not longer aspire after a future morally and socially ideal picture, but after the optimalization of the relation between parents and children at this particular moment, with due regard and respect for the unique characteristics of both their children and themselves. Education in the existing paradigm may be synonymous with doing away with the childlike aspects of man, the maturity paradigm looks upon the relation between children and adults as an encounter between two separated forms of life, a dialogue within the framework of a special relation of love and care, where all partners have in principle the same rights, be it that these rights bear particularly upon doing justice to the others and to oneself.

4. The crucial role of scientific research

What role can scientific research play in the striving for a better position of the child ? I think a very important but at the same time a very limited one. Even in physics changes of paradigm do not emanate from a strictly scientific or rational process [13]. The choice of a new paradigm is above all a creative or intuitive choice, which at first even counters certain empiric conclusions. According to Thomas Kuhn the new paradigm will gradually gain strength and acceptance, as it turns out to be able to solve the problems that caused the crisis of the old paradigm. Starting from the old paradigm, however, the solutions provided by the new paradigm can never be said to have scientific value, for they are based on "axioms" which conflict with those of the old paradigm. That is why the conflict between the two can never be settled using scientific arguments. The enfant terrible among philosophers of science, Paul Feyerabend, even claims that the opposition is comparable to a politico-ideological conflict, where the quality of the propaganda used will be decisive for the outcome [14].

It goes without saying that a discussion between the adherents of the educational paradigm and those of the paradigm of maturity is a discussion on foundations, a conflict between fundamentally incompatible anthropological values. So neither can benefit from using scientific arguments. The adherents of the paradigm of maturity will therefore have to resort to as much convincing information as possible. What is needed is not a scientific method, but, as the subtitle of the congress rightly indicates, an adequate strategy to arrive at a better position of children in society. But since our modern society has a great regard for science, undoubtedly owed to the general misconception that a scientifically based statement is synoymous with a correct statement, it is very important that the new paradigm should at least give the impression to be scientifically sound. Although it is not unusual in politics to make play with scientific results in order to present policy changes as objectively necessary, every true scientist will admit that this way of going about things smacks of corruption. The scientific methods I am referring to are nothing like these demagogical applications of science in the battle between paradigms. Scientific research may for instance highlight certain psychological and social problems of educators and children, both with respect to their quantity and their quality. It may try to find an acceptable explanation for the relation between these problems and the prevailing educational paradigm. In this way, scientific research becomes a means for denouncing and worsening the crisis of the educational paradigm. Another way for the new paradigm to gain acceptance is researching on the relation between the different styles of education and school resuts, for instance. Although such research may be done along the lines of the traditional, methodological rules [18], I believe that in view of the strategy this congress is pursuing, it is of the outmost importance to try and join those scientists who are revolting against the monopoly of the deductive-nomological method, and advocating the scientific recognition of other research methods, such as "action-research", the method of participating observation and the "understanding" method. These qualitative research methods do not longer start from a generalizing view of mankind, but on the contrary consider every human as a unique and individual phenomenon, which at the same time is part of a whole. It is precisely a holistic and pragmatic view of science like this that dovetails with the striving for a better position of children, and that consequently may fulfil a crucial function in this striving.

5. Conclusion

I have tried to convince you that the striving for a better position of children in society is comparable to a change of paradigm, such as we know it from the history of natural science. For some of you this comparison may look new, but fortunately the idea of a fully-fledged position of children, and hence the refusal of traditional educational ideology, is not. I will not bother you with names of distinguished educationalists who have been furthering these ideas in the past few years. Instead I would like to end with some lines which were written as long as 70 years ago but which, in my opinion, express the idea of this congress very well. They are from the Armenian writer Kahlil Gibran [19] :

> Your children are not your children.
> They are the sons and daughters of Life's longing for itself.
> They come through you but not from you,
> And though they are with you yet they belong not to you.
>
> You may give them your love but not your thoughts,
> For they have their own thoughts.
> You may house their bodies but not their souls,
> For their souls dwell in the house of to-morrow,
> which you cannot visit, not even in your dreams.
> You may strive to be like them, but seek not to
> make them like you.
> For life goes not backward nor tarries with yesterday.

You are the bows from which your children as living
arrows are sent forth.

Notes

1. Aristoteles : fysica. cf. a.o. Russel, B.: Geschiedenis der Westerse Filosofie. Katwijk aan Zee 1948.

2. Cf. a.o. Boorstin, D.J.: The Discoverers, a history of man's search to know his world and himself. Penguin books 1986.

3. Taken from : Kuhn, T.S.: The structure of Scientific Revolutions. Chicago 1970.

4. Cf. a.o. Gribbin, J.: Op zoek naar Schrödingers kat, Quantumfysica en de werkelijkheid. Amsterdam 1985.

5. Pagels, H.R.: De Kosmische Code, Quantumfysica, de taal van de natuur. - Amsterdam 1984. Cf. also : Gribbin 1985.

6. For a brief survey of this discussion, cf. : Koningsveld, H.: Het verschijnsel wetenschap. Meppel 1982.

7. Imelman, J.D.: Inleiding in de pedagogiek. Groningen 1981.

8. Horst, W. ter: Algemene Orthopedagogiek. Kampen 1983.

9. Langeveld, M.J.: Beknopte theoretische pedagogiek. Groningen 1969.

10. Strasser, S.: Opvoedingswetenschap en opvoedingswijsheid. Den Bosch 1963.

11. Kok, J.F.W.: Specifiek opvoeden in gezin en school, dagcentrum en internaat. Amersfoort 1984.

12. Kuhn, T.S.: The Copernican Revolution, Planetary Astronomy in the development of Western Thought. Cambridge, Mass., 1957. Cf. also : Boorstin 1983.

13. Kuhn, T.S.: The Essential Tension. Chicago 1977. Cf. also : Kuhn 1970.

14. Feyerabend, P.K.: In strijd met de methode. Meppel 1977.

15. Like for instance in : Tausch, R. en Tausch, A.: Psychologie van opvoeding en onderwijs. Deventer 1975.

16. Gibran, K.: De Profeet. Wassenaar 1927/1977, London, William Heinemann, Ltd, 1927, p. 17.

HISTORICAL PERSPECTIVES ON CHILDREN'S RIGHTS

Vivian C. Fox

When people concerned about children's rights have paid attention to the history of their subject, their beliefs have been powerfully influenced by two historians, Phillipe Aries and Lloyd deMause. Aries, the French social historian, published "l'Enfant et la Vie Familiale sous l'Ancien Regime" in 1960 [1]. he was then essentially alone as a scholar in the field of the history of children. The significance of this work was affirmed by its reception in Europe, and again when only two years after the French publication it was translated into English with the title, "Centuries of Childhood" [2]. The Aries thesis maintained, that around the 17th century a conception of childhood emerged. Prior to the appearance of that conception, the special nature of the childhood years was ignored and children were treated as miniature adults. The new concept activated the involvement of parents and social institutions with the peculiarities of childhood. As a result, Aries postulated, children once left alone were now intruded upon by parental and state authorities who believed intervention to be important if pliable childhood was to develop into acceptable adulthood.

Fourteen years later the second seminal book on childhood was published by Lloyd deMause, a leading figure in psychohistory. "The History of Childhood" [3] consisted of essays devoted to childhood in different European epochs. His own contribution, "The Evolution of Children" opened with the now famous and startling sentence : "The history of childhood is a nightmare from which we have only recently begun to awaken. The further back in history one goes, the lower the level of childcare, and the more likely children are to be killed, beaten, terrorized, and sexually abused" [4]. Central to deMause's conception was his psychogenic view of history, an evolutionary schema which focused on the 18th century as the pivotal time attitudes towards children improved. Although Aries and deMause differed as to the manner in which children have been treated - Aries believed it to have been one of benign neglect, whereas deMause, saw the dominance of wilful harm - both proposed that a significant break with the past had occurred around the 17th or 18th century.

Historians and writers on children's rights have not been the only ones influenced and enriched by their findings; other disciplines have profited as well. But this reliance on the Aries-deMause thesis has led writers on children's rights to the conclusion that before the modern era children did not have rights. This paper proposes that their conclusion is wrong, for two fundamental reasons. One relates to more recent historical research which reveals a different and far more complex history of childhood than that which was described by Aries and deMause; their views, in short, are no longer relied on by historians. The other is a matter of there being independent evidence of the existence of children's rights prior to the 19th century [5].

The first part of this paper undertakes to explain why the influence of Aries and deMause had on children's rights scholars was so strong. The second section examines more recent scholarship in the history of childhood as well as in family history, demonstrating the ways in which the new research offers a richer and more varied perspective of childhood in the past than do Aries and deMause. The more recent historical material also diminishes the significance of the 18th century as a watershed for the recognition of childhood and of empathy for children [6]. This also removes any barrier to the "discovery" that children's rights existed prior to the 18th century, as they certainly did. Children's rights can only exist in a climate where distinctions between children and adults were assumed and where recognitions of children's particular vulnerabilities and needs was culturally sanctioned. The new research asserts that by the 16th century at the very least and perhaps even before, an awareness of childhood as a distinct period of human existence can be seen. It is also now accepted among historians that unlike the Aries/deMause assumption that modes of childrearing prevailed one at a time in the course of history, that during the early modern period several modes of childrearing coexisted.

The third section of this paper reviews some of the evidence indicating that children's rights did exist prior to the 18th century. The final section of this paper offers a few conclusions from the previous analysis.

I. The Influence of Aries and deMause

"Centuries of Childhood" in 1962 proved to be not only a catalyst for investigations of the history of family and childhood but also to be persuasive and to attract a following for its theories. Soon after its publication other historical publications appeared supporting the Aries thesis. In America, for example, John Demos found that in the 17th century Plymouth Colony that "(c)hildhood as such was barely recognized ... there was little sense that children might be a special group with their own needs and interests and capacities. Instead they were viewed largely as miniature adults. The boy was a little model of his father, likewise the girl of her mother" [7]. Similar confirmations of the Aries view appeared in reports of the English experience. For example, M.T. Tucker opened her article concerning fifteenth and sixteenth century English childhood with : "(t)he medieval idea that children were not terribly important persisted into the fifteenth and sixteenth centuries" [8]. Still another well-known historian of English childhood, J.H. Plumb, supported the absence of a concept of childhood theme by maintaining that even well into the 18th century "there was no separate world of childhood. Children shared the same games with adults, the same toys, the same fairy stories. They lived their lives together, never apart" [9]. There is no reason to multiply these examples. With few exceptions, the community of historians was stimulated by and largely supportive of Aries' ideas. One major historian, John Demos, rested his acceptance partly on what he saw as the power of the evidence relied on by Aries. Most of this is derived from iconography, paintings which represented children dressed similarly to adults. To Demos this artistic representation "implied a whole attitude of mind" one which reflected that "(t)here was no idea that each generation required separate spheres of work of recreation" [10].

The professional following of deMause is also evident, particularly concerning the belief that from ancient times until late in early modern history children were subjected to widespread brutality. Most advocates of the general-brutality-towards-children school agree with deMause's claim that conditions began to improve somewhere during the early modern period. Aries, in contrast, maintained that the earlier benign neglect of children changed during 18th century into calculated intrusions into the lives of children, a position reiterated by some historians of education [11]. deMause and those who fall in the brutuality school seemingly provide little relief from the view that until relatively late in early modern European history children were sold, beaten, abandoned, harshly disciplined, frightened, repressed, restricted, ignored, coerced into marriage, sexually abused and more. For example, Plumb notes that even throughout most of the 17the century "(t)he dominant attitude towards children (was)... autocratic, indeed ferocious" [12].

An important corollarly to the position which denies existence of a conception of childhood during the early modern era was the contention that the stage of adolescence was similarly non-existent during those centuries. The evidence amassed by historians John Demos and Joseph Kett pointed to the emergence of adolescence only in the 19th century or even later [13]. According to this assessment, pre-19th century societies failed to acknowledge and failed to respond to the pubescent and cognitive changes in children and to the transitions (increaded responsibilities, training, education) to adult status usually associated with the adolescent years. Although not specifically attributable to Aries, the theory of a late blooming of adolescence comports with one of the pivotal assumptions made by him. This was that cultural conditions are determinative in creating conceptions about human development; for childhood the appropriate milieu was taken to be not fully present until the 18th century. The concept of adolescence needed still another hundred years before the cultural conditions ripened.

These views have been almost totally incorporated into the thinking of writers on children's rights. Cynthia Price Cohen, for example, reads Aries and deMause accurately in asserting that "the idea that children have special needs and should be accorded special protection is one that is relatively new ..."She further asserts that "the history of childhood is filled with illustrations of the maltreatment of children. They have been suckled by wet nurses ... treated as ... property, as miniature adults ... sold ... simply killed or left to die" [14]. Cohen is supported by Pappas who declares "the concept of the rights of the child has not had a long history of recognition. The jurisprudential underpinning of the harsh reality of the child's life prior to the nineteenth century was the notion of the child as human chattel ... Children ... were neglected, abandoned, abused ... and even killed with impunity" [15]. A further example of the popularity of Aries/deMause thought among children's rights scholars can be found in Bennett's recent article in which he writes, "children's rights are a relatively new and emerging concept. The child (he continues) did not attain a juridical personality until the nineteenth century ... Until that point, European children were legally little more than chattels of their fathers and were virtually unprotected by the State" [16].

It seems clear that children's rights scholars have accepted four conclusions from historians of childhood. 1. They assume that the general treatment of children was bad and without consideration for their vulnerability. 2. They accept that the idea of childhood and children's needs is of recent vintage. 3. It is also assumed that children had rights only recently. 4. They espouse a belief in the idea of progress as it applies to the treatment of children and the recognition of their rights. Unfortunately, their reliance on these ideas is misplaced, as an examinition of recent historical research demonstrates.

II. The Recent Historical Research

Almost from the outset the Arie/deMause thesis has had dissenters [17]. More recent historical research has reexamined the assumptions, the evidence and the conclusions of the Aries-deMause school, a process of investigation that probably leaves little in tact of the basis for the view of history taken by children's rights scholars such as those just mentioned.

One of the important elements in these revisions relates to the Aries denial that there was no concept of childhood and no recognition of the special nature of the early years of growth and development. This denial has been seriously undermined. Fox and Quitt, for example, describe the developmental process early moderns expected their surviving children to experience [18]. Rather than finding that the whole of childhood was ignored, we found that there was an awareness of childhood in a sequentially organized and particularized sense [19]. The evidence collected demonstrates that infancy was a stage of growth recognized to include such unique events as baptism, nursing, swadding, particular dress, use of certain solid foods and teething. Ensuing years of childhood were distinguished by weaning, walking, changes in dress to distinguish the sexes, increased discipline, religious training and, for some, schooling and work for others.[20] Other historians have reached a similar conclusion on the issue of an absence of childhood prior to the modern era.[21]

The recent research has also addressed the question of whether and when adolescence was known in the past. Historians have disagreed as to whether adolescence was a phenomenon of modern times. But John Demos' endorsement of the Aries view that, "all the evidence we have, suggests that adolescence as we know it - a turbulent period of inner stress - barely existed before the twentieth century" has been challenged by historians who have unearthed evidence demonstrating that in colonial America, in Tudor and Stuart England and in 16th century France youth, the term was generally used to describe pre-adults, bears strikingly similarity to the depictions of adolescence in the modern era [22]. Furthermore, the Fox/Quitt model of development includes adolescence as one of the stages recognized prior to the 19th century.

But perhaps the position of recent historians, in regard to the concepts of childhood and adolescence, has been best summed by Ross W. Beales, Jr. when he wrote recently :

"The discovery of childhood and adolescence in colonial America is part of a larger reassessment of childhood and youth in Europe and a growing critical awareness of the deficiencies of Philippe Arie's Centuries of Childhood which suggested that Europeans did not recognize childhood as a stage of life before the seventeenth century" [23].

Strong refutations have also appeared of the deMause assertions concerning a pervasive cruelty to children. Great strides have been made in resurrecting the lives of children. There are now much more varied data available than Aries and deMause had, which reveals that generalizations from particular instances of mistreatment are hazardous. Historian David Herlihy, for example, rejected the view that medieval parents were indifferent to their children. Rather, his research led him to claim, paraphrasing approvingly the position adopted in the eleventh century by Bernard of Anjou, "that most human beings, and his contemporaries among them, find in rearing their children the largest part of their happiness" [24]. Steven Ozmont who described the caring nature of German and Austrian parents during the 16th century presses the same point.

It is a great, self-serving myth of the modern world that the children of former times were raised as near slaves by domineering, loveless fathers who owed them nothing, the home a training ground for the docile subjects of absolute rulers. On the contrary, from parental care to their indoctrination in the schools, there is every evidence that children were considered special and were loved by their parents and teachers, their nurture the highest of human vocations, their proper moral and vocational training humankind's best hope. Parenthood was a conditional trust, not an absolute right [25].

Among the most persuasive bodies of recently uncovered information concerning the treatment of children in the past is the 1983 book by Linda Pollack [26]. For the period between 1500 and 1900 in England and America, she examined 496 diaries and autobiographies as well as newspapers reports of court cases relating to child abuse that appeared prior the 1889 Prevention of Cruelty to and Protection of Children Act [27]. Pollack found that her sources refuted Aries in that they demonstrated that a concept of childhood was present during the 16th century. She concluded that "parents recognized that children were physically and mentally immature and so dependent on adult protection and guidance"[28]. This appreciation of children's dependent status appears, for example, in one autobiography written durings they years, 1552-1620 which admonishes : "parents have much to answer for before God, who neglect their duty in bringing up their children, or prefere any care, labour or delight in the world before that natural and most necessary employment"[29]. Pollack was not able to find evidence of parental brutality; instead her diaries and autobiographies revealed only few parents utilizing corporal punishment, relying instead on the reprimand or the threat. She surmised, therefore, that harsh and cruel discipline was not the norm and that with the exception of the early 19th century when punishment did increase in severity, "there was considerable continuity and homogeneity in methods of discipline"[30].

The revisionist findings of Pollack, Herlihy and Ozmont have received support in Macfarlane's recent book, "Marriage and Love in England, 1300-1840"[31]. He claims that evidence reveals that from at least the 14th century, English parents have desired children, not because they were economically profitable[32] nor for religious reasons, but solely for the pleasure they brought. Macfarlane illustrates the continuity of child caring attitudes by quoting the 17th century clergyman Ralph Josselin who wrote how he himself was the "great joy of (his) father and mother being much desired", and then further proclaimed about his own children : "I value them above gold and jewels"[33]. It is not without significance that Macfarlane's review of the fourteenth century onward includes explicit references to children's rights[34].

Current researchers also assert that the frequent death of young children has sometimes led historians to draw erroneous conclusions from the responses of their parents. That parents often did not demonstrate grief on the death of their children is cited by Aries and others[35] as evidence that deep feelings for children were absent. Ozmont cautions that this is a misinterpretation.

In the sixteenth and seventeenth centuries, outward intensitivity to death, whether that of a child or of an adult, was considered a moral and religious obligation, behavior every Christian should strive to achieve. A 'hardened' response to death was both appropriate social etiquette and an indication of character for a person who was confident about the meaning of his own life and that of the deceased. But ... successful resistance to grieving did not indicate any absence of love and affection for the deceased, especially for a child; indeed, particularly in the case of deceased children emotional love proved an overpowering temptation[36].

The assumption that only one childrearing mode prevailed at a given time has fared no better than the view that children were generally grossly abused. One of the major shifts on this question has come from family historians who reject this one childrearing mode or treatment per period of time. Lawrence Stone, for example, offers another model which maintains that for periods of time between the 16th and 18th century there existed two family systems, as new ones succeeded the earlier ones, creating a transitional period of overlap in which both prevailed. To each system, moreover, Stone attributed a childrearing pattern and its special treatment of children. Thus during the second part of the 16th century one distinguishing characteristic of the family type of that time was a new and intensified focus by parents of childrearing. A consequence of this attention, Stone claims, "was to treat them more harshly in order to break their stubborn wills ..." [37.] That family system remained, moreover, until about 1700 while the next family system was emerging. In contrast to its predecessor, the new one devoted more energy and love to its children and was far more permissive with them [38.] But while the old one was fading out and the new one was emerging both harshness and permissiveness coexisted.

An additional confirmation of the coexistence of multiple childrearing patterns can be found in Greven's earlier study of colonial and republican America [39.] He found that childrearing patterns resulted from the differing socio-economic conditions in society and from the variety of religious temperaments in society. Importantly, a variety of these conditions and temperaments were present at any given time, producing differing but coexisting childrearing patterns. Greven derives three groups from this analysis, each with its distinctive socializing pattern. The first pattern of childrearing he identified, was one in which children's will and autonomy were harshly restricted. In the second, parents socialized their children to prefer duty to self-organization, a preference which, in turn, directed them to improvening themselves in the service of others. Although both sets of practices stressed control, the second, in contrast to the first, acknowledged children's particular requirements, communicated love and understanding to them and stressed differences from adults in their stages of development. The third group is described as made up of people considerably more at ease with themselves than the others. They promoted pleasure and self-gratification, communicating a strong sense of self-worth to their children who were raised with much affection and permissiveness [40.]

The simultaneous multiple childrearing view of Stone and Greven is supported by Ross W. Beales Jr. who describes how a variety of American colonial family patterns resulted from a number of different influences, such as distinctions in immigration patterns, demographic variations and multiple geographic conditions. All of these factors, he argues, promoted "dramatic contrast in family life between New England and the Chesapeake" [41] and had profound effects upon children.

III. Evidence of Children's Rights

Thus far it has been urged that those who believe there to have been no children's rights until the recent past have rested their views on historical investigations that have been substantially superseded. From this it may be inferred that children perhaps did have recognized rights in earlier times. It is not, however, necessary to rely on inferences of this sort. Unburdened by the power of the Aries/deMause perpective, historians, such as MacFarlane, have now begun to address the question of whether children had rights. What follows is an outline of the results of very preliminary investigations along these lines which I believe to be the proverbial tip of the iceberg. Much more research in this area will be needed in order to obtain a fully considered response to the question and will be forthcoming in the near future [42].

At least as early as the 13th century children had a right recognized in specially established courts to receive a designated share of their father's property upon his death. At about that time, freemen, wealthy businessmen who enjoyed the liberties of the city, had urged that an Orphans Court be chartered in London which would insure that orphans would receive their inheritance. By the late 16th or early 17th century similar charters were granted to establish these courts all over England [43]. Establishment of this court insured that during the time when the inheritance was held by the children's guardian it was not dissipated [44]. Not only was there a children's right at an early period, but mechanisms were devised to insure that it was respected. Children were, furthermore, vested with a right to have a higher tribunal oversee the proper functioning of these mechanisms [45].

In addition to the children's right of inheritance, English law during this same period appeared to grant children the right to own property and the right to defend their property rights in court independent from parents or guardians. It seems to be untrue that children had no juridical personality before the 19th century, as Bennett asserts [46]. This unusual right can be contrasted to the continent, which in following the Roman tradition, allowed the father, for a number of years, to absorb his children's property into his own [47]. Differences were also noted between English children and children of ancient Romans by Sir Thomas Smyth who in the 16th century commented that "Our children be not in postestate parentum, as the children of the Romans were ... That which is theirs they may give or sell, and purchase to themselves, either lands and other movables the father having nothing to do therewith" [48].

The children's right to own property had a number of consequences as Swinburne, a leading expert in wills during the early modern period, indicated. For example, boys of 14 and girls of 12 could sell their property without the consent of their fathers or guardians; they could, in addition, convey their property through a will [49]. Another consequence of the children's right to keep their property had to do with their keeping the wages they earned after they had left home, rather than sending it to their parents. It can probably be inferred that they had a customary right to retain these wages, in the sense that their autonomy in this matter was widely accepted. Extensive research by historians has uncovered little data which indicates that children usually sent any of their earnings home to their parents. Kussmaul, who has researched extensively on farm servants during the early modern period, only uncovered one indirect reference to children sending any wages to their parents. She also writes that acceptance of the children's control over their own wages served to advance the interests of the community as a whole since, "farm service gave the children of the poor a chance to save the wages they received in order to stock small farms or common land, or simply to furnish the cottage they would inhabit when they married" [80].

One more example of children's rights will be briefly noted, that of the newborn to life. Although child murder was always a part of the law of criminal homicide, in the early 1600's, the appearance of the new crime of infanticide attested to a special effort to prevent the death of young children. Although, according to recent historical inquiry, the substantial motivation for this development appeared to be to prevent women from concealing their sins, the new law did provide infants with an enhanced right to protection that did not exist earlier [81].

IV. By way of conclusion.

The three examples of children's rights, two of which provided them with a status akin to that of adults and the third recognizing children's need for special protection, were included to demonstrate that pre-modern society did not regard children as ineligible for important rights. Recognition of this in the history of childhood is long overdue and should be counted as part of the effort to expand this relatively new historical field.

The Aries thesis is over a generation old, and deMause's evolutionary theory is in its teens. Their contributions opened up a whole new field of research and provided a generation of scholars the opportunity to test, criticize and revise their ideas. The result has been major revision of their substantive ideas and criticisms of their methodologies [82]. These call in question whether the 18th century, widely believed to have been the watershed when childhood left "the dark ages" and entered modernity, merits that recognition. If, as maintained here, both the concept of childhood and children's rights can be identified prior to the 18th century then either there were "watershed" developments at an earlier period, or perhaps it should be entertained that no watershed occurred. The latter would be the case if further research indicates that the development of children's rights had more to do with the locale of the development and the socio-economic status of the children than with the arrival of any global turning point.

Further research also needs to bear in mind that children in the past may not have had certain rights but not because children as a class were denied these rights, but rather because such rights were not available to anyone. For example, children in the 17th century were not entitled to be represented by a lawyer when accused of criminal conduct, but neither were adult defendants. It is also important not to underestimate the significance of children's rights merely because enforcement may have been weak. Few would deny that the Civil War amendments in the United States [83] granted major rights to Black persons even though effective enforcement did not arrive until recent decades. Indeed, enforcement over time, like the tides, may ebb and flood. But the right itself, once planted, hardly ever vanishes.

Notes

1. Paris, Librairie Plan., 1960.

2. New York, Vintage Books, 1962.

3. New York : The Psychohistory Press, 1974.

4. Ibid, p. 1.

5. The assertion that children had rights in centuries earlier that the 19th, rests on the view that children had entitlements to which they could make claim as being theirs and which were recognized in some authoritative form as well, i.e; law, custom, relegion. Objection to the view that children had rights can be based on some of the following :
that some of the entitlements may not have been applicable to all children; that the motivation for the establishment of an entitlement was not always child-oriented; and finally that enforcement was not always possible. All of these positions do not undermine the argument that children had rights. As long as one can demonstrate that there were entitlements specific to children, that they were established in law or custom and that entitlements functioned to protect or promote the interest of children then those entitlements can be said to be children's rights. See Ian Shapiro, The Evolution of Rights in Liberal Theory (Cambridge : Cambridge University Press, 1986) pp. 14-18. I am grateful to Professor Herbert Moller for detailed criticism and suggestions on this point. There will be further discussion of this in the conclusion.

6. This position is a somewhat different emphasis from the one I have previously held. See, Vivian C. Fox and Martin H. Quitt, eds. Loving, Parenting and Dying : The Family Cycle in England and America, Past and Present (New York : Psychohistory Press, 1980) see Part II. introduction to childhood. For the more traditional view see Lawrence Stone, "Family History in the 1980's Past Achievements and Future Trends", Journal of Interdisciplinary History, 12 (Summer 1981) : 89-113.

7. John Demos, A Little Commonwealth : Family Life in Plymouth Colony (New York, Oxford University Press, 1970), pp. 57-58. On p. 140 Demos notes that children may have been assigned certain home tasks which he claims might indicate "at least a limited recognition of differences between the child and the adult".

8. in the History of Childhood, Lloyd deMause, editor : 229-257.

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9. J.H. Plumb, "The Great Change in Children", Horizon, XIII. (Winter, 1971) : 7.

10. Demos, Plymouth Colony, p. 140.

11. deMause, "The Evolution of Childhood", passim. For the historian of education, see Barbara Finkelstein, "Casting Networks of Good Influence : The Reconstruction of Childhood in the United States, 1790-1870, in American Childhood : 111-152 and "Pedagogy as Intrusion : Teaching Values in Popular Primary Schools in Nineteenth-Century America, 1820-1880". History, Education and Public Policy : Recovering the American Educational Past, edited by Donald R. Warren (Berkley, Calif., 1978)

12. deMause, Ibid., deMause is by far the most unrelenting in his views. See also Richard B. Lyman, Jr. "Barbarism and Religion : Late Roman and Early Medieval Childhood", History of Childhood : 75-100. Lyman does mention that with the influence of the church there seemed to be a lessening of the brutality; Edward Shorter, The Making of the Modern Family (London, Willian Collins, 1976) Shorter is closest to deMause in picturing the past as brutal; J.H. Plumb, "The New World of Children in Eighteenth-Century England" Past and Present, 67, (1973) : 64-93; Lawrence Stone, "The Rise of the Nuclear Family" The Family in History, edited by Charles Rosenberg (Philadelphia, University of Pennsylavania Press, 1975) : 113-49. In this piece Stone presents an unqualified position in contending brutality towards children increased during the 17th century. But each of these historians do maintain that at some time a changed attitude towards children does occur. With the exception of Stone, they characterize particular periods in a general manner, i.e. as treating children in a harsh, if not brutual manner. Stone's more complex stand is stated in his later book, The Family, Sex and Marriage.

13. John and Virginia Demos, "Adolescence in Historical Perspective". Journal of Marriage and the Family (1969) : 632-638; Joseph F. Kett, "Adolescence and Youth in Nineteenth Century America", Journal of Interdisciplinary History 2 (1971) : 283-298.

14. pp. 601-2 University of Dayton Law Review, 11 : 3 (1986) : 601-648. I want to thank my husband, Professor Sanford J. Fox for providing me with this and the following two references.

15. Anna Mamalakis Pappas, (New York : United Nations Institute for Training and Research, 1983) pp. xxvii-xxviii.

16. Cornell Internation Law Journal, 20 (1987) p. 15.

17. See for example, Natalie Zemon Davis, "The Reasons of Misrule : Youth Groups and Charivaris in Sixteenth-Century France", Past and Present, 95 (1982) : 41-75; Vivian C. Fox, "Is Adolescence a Phenomenon of Modern Times ?" Journal

of Psychohistory 5 (1977) : 271-290; Ross Beales Jr., "In Search of the Historical Child : Miniature Adulthood and Youth in Colonial New England" AQ 27 (1975) : 379-398; Mary Martin McLaughlin, "Survivors and Surrogates : Children and Parents from teh Ninth to the Thirteenth Centuries", in deMause, The History of Childhood : 101-181; Peter Laslett, Family Life and Illicit Love in Former Generations (Cambridge, Cambridge University Press, 1977) p. 19.

18. Fox, Quitt, p. 4.

19. Such awareness began even before birth when women were encouraged to watch their diet, to excercise moderately in order to give birth to a healthy child. After birth didactic writers urged mothers to nurse their infants so that bonding, which they recognized as important would be easily achieved. In 17th century America, John Robinson remarked, "(c)hilden, in their first days, have the greater benefit of good mothers, not only because they suck their milk, but in a sort, their manners also, by being continually with them, and receiving their first impressions from them" while Henry Smith in England warned "that a mother should not be suprised if her child denied her later in life (should she deny) it her breasts early in life". The stage of infancy also included childnaming to concern over their health, grieving their death, and encouraging them to walk while childhood and adolescence parents attented to their religious and secular education and to their future careers parents, those - that is except perhaps the overworked - undernourished poor - appeared to have participated in the growth process of their children. Michael K. Eshelman, "Diet During Pregnancy in the Sixteenth and Seventeenth Centuries" in Fox, Quitt, pp. 225-237; The Works of John - Robinson, Pastor of the Pilgrim Fathers with a Memoir and Annotations, ed. Robert Ashton (London, John Snow, 1851) ! : 244, In Ross W. Beales, Jr., "The Child in Seventeenth-Century America", American Childhood, A Research Guide and Historical Handbook edited by Joseph M. Hawes and N. Ray Hiner (Wesport, Conn, Greenwood Press, 1985) p. 25 ; Lu Emily Pearson, Elizabethians At Home (Stanford University Press, 1957), Chapter, 2, 3, 4.

20. Fox, Quitt, passim. It is to be noted that no specific evidence for swaddling has been located in America. See Demos, Commonwealth; Fox/quitt, p. 255. However, 19th century doctors in America advised mothers not to apply swaddling bands leading one to assume it was practised. See for example, William Buchan, M.D., Domestic Medicine : or a Treatise on the Prevention and Cure of Diseases, 14th edition, (Boston, Joseph Bumstead, 1783); Joseph Brevitt, M.D. The Female Medical Repository to which is added A treatise on the Primary Diseases of Infants (Baltimore : Hunter and Robinson, 1810). For distinctions in dress after reaching a particular age see, Karin Calvert, "Children in American Family Portraiture, 1670 to 1810". William and Mary Quarterly, 3d ser., 39 (1982) : 87-113; David Hunt, Parents and Children in History. The psychology of Family Life in Early Modern France (New York, Harper Torchbooks, 1970).

21. See note 17; Linda A Pollack, Forgotten Children, Parent-child relations from 1500 to 1900 (Cambridge, Cambridge University Press, 1983).

22. John Demos, "Demography and Psychology in the Historical Study of Family life : A Personal Report" in Peter Laslett and Richard Wall, eds. Households and Family in Past Time ... (Cambridge, Cambridge University Press, 1972) pp. 564-565; For a view similar to Demos see, Joseph F. Kett, Rites of Passage : Adolescence in America, 1790 to the Present (New York : Basic Books, 1977); The new findings can be located in such works as, N. Ray Hiner, "Adolescence in Eighteenth-Century America", History of Childhood Quarterly 3 (1975) : 253-280; Natalie Zemon Davis, "The Reason of Misrule"; Steven R. Smith, "The London Apprentices as Seventeeth-Century Adolescents". Past and Present, 61 (1973) : 149-161; idem, Religion and the Conception of Youth in Seventeenth-Century England" H.C Q 2 (1975) : 493-516. Ross E. Beales, Jr. "In Search of the Historical Child"; Vivian C. Fox, "Adolescence"; Roger Thompson, "Adolescence Culture in Colonial Massachusetts", Journal of Family History, 9 (Summer, 1984) : 127-142; See also note 13 above.

23. Beales Jr. "The Child in Seventeenth-Century America", p. 25.

24. (Cambridge : Harvard University Press, 1985), p. 130.

25. Steven Ozmont, When Fathers Ruled, Family Life in Reformation Europe - (Cambridge : Harvard University Press, 1983), p. 177.

26. Forgotten Children : Parent-child relations from 1500-1900.

27. Pollack even acknowledged the short-comings of her sources, i.e. that her diaries and autobiographies would be baised towards the literate people. But her other sources she reasoned would take into account the attitudes and actions of the non-literate. Those included among others, newspaper accounts, studies by historians who scrutinized coroner's rolls - which reported on serious crime throughout the population- and notebooks of the astrologers such as 16th century Richard Napier who advised all groups of people and recorded their stories.

28. Pollack, pp. 98-99.

29. Grace Mildmay, The Journal of Lady Mildmay in Ibid, p. 202.

30. Ibid., p.202.

31. (London : Basil Blackwell, 1986).

32. Fox and Quitt suggested this in Loving, Parenting and Dying. See pp. 37-42.

33. Macfarlane, p. 52.

34. Ibid., pp. 80-81.

35. Aries, Centuries of Childhood. See also Edward Shorter, The Making of the Modern Family and Elisabeth Badminter, Mother Love, Myth and Reality, Motherhood in Modern History (New York, MacMillan, 1980).

36. Ozmont, p. 169. For a different view see Ferdinand Mount, The Subversive Family, An alternative History of Love and Marriage (London, Unwin Paperbacks, 1982) chapter 7.

37. Lawrence Stone, "Past Achievements and Futur Trends" Journal of Interdisciplinary History, 12 (1981) : 51-65; The Family, Sex and Marriage, chapter 5. This system predominated between 1580-1640.

38. Ibid., The Family, pp. 7-8.

39. Patterns of Child-Rearing, Religious Experience, and the Self in Early America (New York : Alfred A. Knopf, 1977) p. 12.

40. Ibid., pp. 12-14.

41. Beales, "The Child in the Seventeenth Century" pp. 15-25; see also Fox, Quitt, Introduction; Stone, "Family History in the 1980's" pp. 81-82.

42. Professor Sanford J. Fox and I have begun the research for a history of children's rights.

43. Charles Carlton, The Court of Orphans, (Leicester University Press, 1974) pp. 13-23.

44. Ibid., p. 14.

45. Ibid., pp. 55-60.

46. See supra]

47. Macfarlane, pp. 80-81.

48. Smyth, DeRepublica, 106, in Ibid., p. 81.

49. Swinburne, Wills 67 in Ibid., pp. 81-82.

50. Ann Kussmaul, Servants in Husbandry in Early Modern England (London, 1981) in Ibid., p. 84.

51. Peter C. Hoffer and N.E.H. Hull, Murdering Mothers : Infanticide in England and New England, 1558-1803 (New York University Press, 1981).

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CHILDREN'S TIME SPENDING AND ITS LATITUDE

Jan Van Gils

Do children today have time of their own ? All kinds of educational initiatives make great demands on their time. School, parents' projects, hobby's in the creative sphere or sports rule the time spending of children. Beside all this television demands in an intrusive way a lot of their time. Is a child's day filled up ? Or does there remain some space for proper initiatives ?

The question as to the possibilities for children to organize this time themselves arose from an investigation into the developing possibilities in the living area [1]. By means of several planning-instruments all space in the living environment gets its division : roadways, foot-paths, houses, commercial properties, schools and places for play.

Investigation into the play behaviour of children.

Do there remain interesting places in the living environment with all this planning ? Or is the experience of space totally preselected ? Out of our investigation into the way in which children play around their house, it became clear that children themselves don't use the planned play areas very much. Others already proved this [2]. Children like using the street. They look for meeting places themselves. Being investigators we suggested to give more attention to spaces for creative ways of play when planning new living areas. Playing out of fantasy, constructing cabins and other constructions and all kinds of exercise, appeared to become more and more rare phenomena in the living environment.

A sequel investigation, 3 years later, proved how playing had become even more one-sided. Children proved to play even more receptive : individually watching, listening, gaining impressions, taking decisions. The same activities also charac-terized the social contacts of children, watching together, listening, taking decisions. Creative playing formed less and less part of playing, although this wasn't valid for romping and moving [3].

Once we were familiar with the limited space for children to play, we asked ourselves how many space there is in their time. The link between place and time is very quickly understood by parents, teachers, educators and the public opinion. It even seems that their possibilities to change time is even bigger. To change a living area in order to stimulate playing requires a usually long political discussion. Decisions about getting to bed and watching TV are closer to people.

Some arbitrary examples out of everyday-life :

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"Willy, you can take the frontdoorkey to school. Than you won't have to wait until I come to pick you up. You can come home and don't have to stay in that "school" atmosphere. But you must not play in the street, you hear. One never knows. Not in the street, not in the playground, only at home. You can put on TV, but first your home-work. Is that clear ?"

"Boys, tomorrow you can get up early, but keep it quiet. Put on the television. There are some funny cartoons on BBC 1."...
"When you've cleaned up everything and there is some time left, just look for something on television."...
"Quiet down, how frissy you are today, go and watch TV."

"Frank, remember, Elsie has to be in the academy at two o'clock. And Ben at two 30 at the footballstadion. I'll pick up Elsie myself at 3.30. She'll have one hour to make her homework. At 5 o'clock she follows the preparation to confirmation. That she can manage alone.
Ben has to be at the music academy at 4 o'clock. In fact training only finishes at that time, but he has to leave some ten minutes early. I'll see to it that dinner will be ready. If you look for Ben at half past 5, he'll be back at nearly the same time as Elsie. So we'll be able to eat at 6 o'clock. We'll have to, because I want to go to aerobic at 7 o'clock.

Children's time spending is heavily stressed. Under these circumstances it doesn't seem very adequate to talk about "free time". The uneasiness we detected during the investigation into the play area seems adequate as far as the time dedication of children is concerned. This care matches a certain vision on youth and on the required evolution for them.

First we'll make some remarks on this vision. Then we handle what has been noticed in investigations into children's time spending. At last we'll get to the questions : what is time management ? Has there been some investigation into this area ?

Vision on emancipation

Central in this vision is the equality of children. As opposed to an "authority-model" which dominated the pedagogical thinking for a very long time, the equality model [4] starts from the fundamental equality of educator and child. Both find themselves in the same doubt about the sense of life. Education is not leading or conducting to a goal, like adulthood, by an expert adult. The essence of education is the collective consideration on the sense one can give to life. The educator can stimulate the child to take responsibility for life. The search for and development of this sense-giving is fundamentally equal for both, moreover for all others with whom one is together.

Education and development of persons in this sense implies an emancipation process [5]. Leavers [6] distinguishes two types in this emancipation process. At

the one hand the liberation, at the other hand the creative processes. The first case concerns all feelings which impede growing processes of children. The second case manifests the creative urge of man : exploring and transforming the world.
In our investigations we question the nature of the conditions that stimulate liberations - and creative processes. In this sense we enter into the spatial and material circumstances that matter. As we hope, the investigation on time-spending and time-management also gives more understanding in that circumstance.

How adults spend their time has been investigated various times. In the Netherlands [7] but in Flanders too [8] one disposes of a lot of information. Adolescents too were investigated. In Flanders, Breuse and Buyck Cammaer investigated the time spending of youngsters between 12 and 20 years, Faché followed their participation in organisations [9].
Yet investigation into the timebudget of children, younger than 12, hasn't been realised. There are some investigations into the use of the media against the background of children's free time [10]. Especially Geerts (out of the French broad-casting cooporation in Belgium) calls the attention.

Completely different is the kind of investigation of Medrich, Roizen, Ruben and Buckley [11]. They don't bother about the numeral image of time dedication, yet they are looking for coherence between time dedication and differences as far as income, sex and ethic background, education and family structure, outdoor working mothers are concerned.

They investigated 764 children between 11 and 12 years old. They only investigations which answered our criteria - children between 6 and 11 years, immediate examination of children -, are those by Philippart and Ramard. They investigated children from 6 or 7, respectively 8 to 12 years old [12].

Timebudget of children

Without going into details, we will give a survey of the above mentioned investigations. They provide us with a first general view on time spending of children. It is difficult to compare these results. Where possible, some conversions have been made.

In table 1 until 4 you can find Geerts' results. She collected her results between 1970 and 1974 in the French-speaking part of Belgium. We selected the figures in the agegroup from 9 to 11.

TABLE 1

	Weekdays	Wednesday	Saterday	Sunday
vital activities (eating, toilet)	90 min	90 min	90 min	2 hours
helping in the housekeeping	30 min	30 min	30 min	45 min
transport	60 min	90 min	90 min	60 min
school (homework)	7 1/4 h.	4 3/4 h.	3 1/2 h.	15 min
free time	3 1/4 h.	4 1/2 h.	6 1/2 h.	8 hours
night's rest	10 1/4 h.	10 1/2 h.	10 hours	11 1/2 h.

TABLE 2 - Helping in the housekeeping (expressed in minutes).

	Weekdays	Wednesday	Saturday	Sunday
boys	14	25	21	28
girls	38	38	43	47

TABLE 3 - Transport (for the whole group of 9 to 18 year, (expressed in minutes)

	Weekdays	Wednesday	Saturday	Sunday
obliged	69	75	75	35
during free time	4	9	14	23

TABLE 4 - Leisure Time (for the whole group of 9 to 18 years)

	Weekdays	Wednesday	Saturday	Sunday
doing nothing	15 min	15 min	15 min	15 min
performances	15 min	15 min	30 min	60 min
in group	2 hours	2 3/4 h.	4 hours	4 3/4 h.
alone	60 min	1 1/4 h.	1 1/4 h.	1 1/4 h.
radio *	60 min	1 1/4 h.	1 1/2 h.	1 1/4 h.
television *	1 1/2 h.	1 1/2 h.	1 3/4 h.	2 1/2 h.

* included the radio and TV-time combined with other activities such as meals, reading, etc.

In 1978 and 1979 - again in Wallonia - a timebudget of children's free time was made in the investigations of Philippart and Ramard. We summarize their facts.

TABLE 5

	Week	Weekend	Week	Weekend
vital activities (eating, toilet)	76 min	101 min	84 min	109 min
helping in the housekeeping	7 min	7 min	30 min	45 min
transport	18 min	28 min	35 min	32 min
school (homework)	5h.56m.	-	5h.42m.	12 min
free time	5h.01m.	10h.27m.	5h.13m.	10h.38m.
night's rest	11h.22m	11h.17m.	10h.37m.	10h.38m.

A comparison between the figures of the 8 to 12 years old and the figures of Geerts' investigation demonstrate a difference in schooltime. This is mainly due to the fact that no difference was made between Wednesday and the other days. Philippart and Ramard only count the time spent in class. Geerts counts the total stay at school, playtimes included. A second difficult item to compare is the time for transport.

In the calculation of Ramard and Philippart free time is what remains of a 24 hours' day after diminishing all other time dedications. Geerts at the other hand considers leisure time as a category of full value.

TABLE 6

	6 and 7 years	8 to 13 years
play	109 min	(not asked)
TV	93 min	123 min
reading	18 min	18 min

TABLE 7 - Amount of children per activity (in percentages)

	6 and 7 years	8 to 13 years
walking with parents	66	-
shopping with parents	27	-
going to the movies	5	11 never 23,5 once a year
sports	14	34 joining a sports-club
youth organisation	11	31
listening to the radio	39	15,5

These tables evoke questions as to more information on the different groups of activities. On some of the specific activities (clusters) are more, even a lot of facts available. On other aspects, very little is known.

Television

"Children and television" e.g. is a very popular theme. There is a lot of literature available on this topic. The public opinion is concerned about the influence on children, about the effect of violence, the consequences of sexual roles, the influence of advertising, the criteria for good childrensprograms, the youth journal, the effect on schoolresults and the influence on time dedication. We confine ourselves here to this last aspect.

Cramond [13] examined the existing investigations and detected identical results on the influence of television on the diminishing visits to movies, listening to radio and reading strips. Also reading undergoes this tendency, yet later, after some years television-experience, children read as many or even more books than before. Reading of newspapers and weekly papers doesn't diminish. Participation in organized activities in a club or sports hardly suffer from watching television. Non-organized activities diminish in proportion : children walk and play less and spend less time without purpose. That's the reason why Cramond concludes that the child's life without doubt becomes more busy and more organized, in combination with the place taken by television. The absence of real leisure time worries most.

In connection with the problem of time management, we'll mention a Swiss investigation [14]. This shows (see : table 8) that parents are less severe as they claim to be. At least, their children calculate their severeness in a different way.

TABLE 8

	inquiry parents	inquiry children
may watch all transmissions	2,8 %	2,6 %
must sometimes ask permission	34,3 %	41,3 %
must always ask permission	57,1 %	47 %
may never watch	0,2 %	0,1 %
no answer	5,6 %	3,3 %

To complete table 8 : Philippart's figures show that 69 % of 6 to 7 years old children put on television without asking permission.

School holidays

School holidays constitute a special chapter. The scheme of time spending is of course totally different. The investigators Philippart and Ramard detected the following results :

TABLE 9

	6-7 years	8-12 years
homework	-	8 min
family duties	6 min	3 min
helping in housekeeping	7 min	45 min
vital activities	90 min	
night's rest	11h. 06 min	12h. 27 min
leisure time	11h. 11 min	10h. 37 min

Watching television changes a lot during holidays. Out of the investigation of the Frenchspeaking broadcasting in Belgium [15] it appears that children between 6 and 11 years spend an average of 110 minutes in front of the screen during schoolyear. During summerholidays it diminishes until 80 minutes. During winterholidays it increases till 180 minutes.
In the morning 27 % of the children are alone at home during summerholidays. In the afternoon 22 % and in the evening 6 % of the children are alone. During winterholidays these figures are respectively 10,6 and 6 percent.

When 600 Westflemish children from 9 to 12 years were asked what kind of activities they undertook during holidays [16]. they answered as follows.

TABLE 10

	children from a rural area	children from an urban area
youth organisation camp	29,8 %	20,2 %
sick-fund camp	11 %	6,5 %
vacation colony	0,4 %	4,7 %

sportscamp	0,2 %	5,7 %
night's rest	42,2 %	33,3 %
leisure time	27,8 %	44 %
stay with family/friends	51,4 %	58,9 %

Only 2 percent of the children - in the urban area 2,3 % - doesn't go out of his home during holidays. 90 % of the children is away from home for at least 14 days and 35 % is away from home for at least 21 days.
Parkinson [17] anounces that (English) children indicated that the three most important places outside their homes were : the street (24 %), a playground (18 %) and the garden (17 %) Children from 5 and 6 years indicated especially they remained in the garden or made little excursions with their parents.

Seven to eight-years old children indicate the same pattern, but they already enter the street.

Those from 9 and 10 year spend most of their time in the street. Boys play significantly more on a playground at a great distance from their home than girls. They tend to play more in the garden with other children or in the swimming pool.
Boys tend to go more on the wild pieces of land.
The investigation furtherhome indicated that 60 % of the children older than 9 years and 38 % of those under 9 were without supervision.
Boys are more often under these circumstances (56 %) than girls (42 %).

The clubs

Children are busy with organized activities. Medrich and others conclude that 79 % of the children they examined, participated during the year to activities in club-connection supervised by adults : music, sports and games. The average number of activities per child is 2,6. Yet the time spending these activities is rather restricted : only 4 to 5 hours a week. Philippart's figures about the participation in sports and youth-movement are a lot lower, especially for the 6 to 7 years old children.

Ramard's data for the age group between 8 and 12 year (see table 7) agree with Medrich's conclusions.

Social position

The investigators Philippart and Ramard examined the relationship between time-

spending of children and their parent's position on one hand and the urbanization of living areas at the other hand.
They constructed three categories in that position : parents with a low, middle and high socio-professional position. They divided areas in cities with more or with less than 30.000 inhabitants and rural areas.
Out of these data it becomes clear that 6 to 7 year old children from families with a high socio-professional position spend more time on school, have less time to play, need less time for transport and go to bed earlier than children from other categories.
With the 8 to twelve year old children in the same group, it calls to our attention that they watch less television, that they go significantly more to youth-organisations (47 % to 29 % in the middle group and 9 % in the lower category families), participate in sportsclubs and go more on holiday.

Six to seven year old children from urban areas spend more time to their daily transport and they play a lot less. The 8- to 12-year old children too, need more time for transport and attend frequently a youth-organisation. They help less in the house-keeping.

Medrich and his colleagues studied these differences more profoundly. They considered the activities not as on their own, but put them in connection with mentalities and values. Differences between the activities - on their own or in group - of children from various socio-economic groups prove to be small. Education of the parents and their income don't influence the number of places they visit with children but the as much as they influence the kind of places. As far as helping at home is concerned, they only noticed differences on the basis of order in the family, sex, ethnical origin and the fact whether the mother works outdoors or not.

The participation at organized activities differs. Boys participate more in sports, girls more in "art"programs. As far as programs in the private sector are concerned, more children of families with a higher status tended to be present than from other groups. The same applied for activities where a contribution had to be paid. Mothers with a higher education tend to control better the television watching of children, yet this goes together with an estimating attitude towards children who spend time to their personal and social development.

Summary

All that is mentioned above, shows there is definitively is a need for a widespread investigation into the time management of children between 6 and eleven years. The data of which we dispose, come from various investigations. They offer some hints, yet all of them aren't very reliable and not always comparable with each other either. Moreover the most recent data are 8 years old.

As far as the content is concerned of the things we know, it draws the attention that school is the greatest consumer of children's time. This certainly doesn't apply less to younger children. In the second place children tend to spend little time to help in the house-keeping. At the other hand they lose a lot of time in transport. This applies more to an urban area than to other places. Thirdly watching television costs a lot time to children, yet one doesn't come to American standards where children are spending 3 to 4 hours daily in front of the television. At last children from families with a higher social-economic position have a greater possibility to get a classical estimated education : more time for school, less for play and television, they sleep more and organised activities (with an educational character) are visited more often.

Time as an uniform standard

As was pointed out, a lot of investigations has been done into the time-budget of adults. This interest has grown and extended in the framework of the workmen's struggle to diminish the number of working hours : they wanted more time they could manage themselves. With this kind of investigation the development of emancipation was measured [18].

The question of emancipation can be put as well for the time-management of children. In the former part we gave a lot of figures concerning time management, but not yet questions like : who determines what children do ?

Who decides which activity children will do ? Do they decide themselves ? Do their parents decide ? When treating these questions we won't confine ourselves to the dichotomy which exists between school and leisure time. This would mean a strong simplification.

Rabe-Kleberg and Zeiher [19] appoint that in the current living conditions of children - just like for adults - there is a growing arrangement, planning, parcelling and economic use of time. They presume that various factors are involved.

First of all : fixing the destination of space - an increase of monofunctional units. The connection between all these entities in the field of living, working, recreation costs time and requires time-organisation.

Radio, television and video constitute a second factor.

Programs take up dayschemes - most important time budget investigations are realized by broadcasting cooperations -, so they structure even more time spending.

Thirdly time within familylife is stronger organized. Children have to adopt themselves at a very young age to the planning of the parent's workingtime, schooltimes, TV-programs, etc.

As a result of this rationality children are less the subject of unexpected interventions by adults.

At last all kinds of provisions create a confrontation with complex organisation and time-rythms : nursery, school, youth-organisation, sportsclub, playschemes.

Time management

The influences on children's time-spending are complex. The influence of society is very obvious. That's why we prefer to speak about time management. This notion expresses the importance of the interaction with the environment better than the notion "time spending".
Time-management shouldn't be reduced to mastering the duration or the succession or frequency of activities.

In order to understand the notion time management better, we will first ducidate our vision on "time". Elias [20] describes time as standardcontinuity of changes whereby can be determined whether a certain change takes place before, after or during another change.
People fix the time as they want to attune their behaviour to activities of others or to events which surround them. If they want to get to a reunion on time, they fix a recognizable moment in respect of each other : they arrange e.g. that they'll start at half past 9.
In a continuous stream of events they want to fix their desire to be present in respect of each other.
They do this by means of the clock : we'll be there at half past 9.

No one thinks that these numbers express in fact a relationship between events, that they are a symbol. Time as a uniform standard started to lead a life on its own. Time - as a standard to visualize the continuous changing - is dominating our society. The actual complec society needs more and more synchronisation of more and more events and activities.
This turns a uniform time-indicator very much into the centre of human life. It leads to the paradox that whoever organizes his time in an active way has to take into account the standarcontinuum of changes.

Elchardus [21] stresses - on the basis of a comparible definition of time - that the struggle for more leisure time, for better working times is important, yet of secondary importance as compared to the real stake of the fight.

This is the freedom and the power to determine which aspects of social organization are and which aspects aren't due to changes. Time as a condition to ordening society hasn't been discovered by man. Man invented it as a useful means.

Against the background of these reflections we can define time-management as the possibility to determine in an active way one's own position within the environment. Near it come emancipation-processes around experiences such as described by Rabe-Kleberg and Zeiher. A time-planning of one's own asks for creativity. It concerns a shaping of one's life which includes more than the decision on which activities time will be spent.

If it were only this, then the uniform time-indicator will remain measuregiving and out of discussion. In that case we would be talking about the socializing process children go through in society.

It also concerns the amount in which children themselves can influence the uniform time-indicator. Can they check their continuity of changes at the continuity society implies on them ? If children have a time-experience and time-management of their own, can this contribute to the appointment of uniform time ?

Yet do children have a time-management of their own ?
Children don't live along the watch. They don't often let their activities be dominated by the uniform time-indicator. Growing into the general time-notion means a very important element of the socialization process of the child. Piaget studied this aspect on a cognitive level.

We have mentioned yet emancipation-processes and creativity. In this context they have to see everything in view of children and their relationship towards society. In their daily intercourse, children orden their activities - also in time. They do attune their behaviour to the environment and the general continuity of changes, yet they put their own accents. The development of a time-notion of one's own and behaving oneself on this basis, is an important aspect of time-management.

Time and creativity

That's the reason why we put two accents as far as time management is concerned. First of all time-management implicates the possibility to active selfdetermination in contacts with the environment. In the second place time management implicates the development and the use of a time awareness of one's own.

Asking for children's time-management implies more than questions like "Can you do what you want ? Can you swith on TV yourself ?".
Children who can wacth television themselves are probably not the children who are less addicted to this medium.

In some investigations questions are formulated in such a way that contacts with the environment are important for the answer. When children answered that they would like to go to Disneyland on a Wednesday afternoon Parkinson e.g. stated promptly that it concerned some hours after schooltime and in their neighbourhood.

Medrich inquired after children's feelings about the 2 to 3 hours they spent alone or with friends, but without supervision, freely. 13 % answered that there wasn't many time to do what they wanted. There is a lot to do, what they wouldn't like to do answered 45 %. Boring themselves after school and during the week-end : 41 %. We would like to do more together with our parents, said 81 %. Have more real friends, according to 67 %. Finally 45 % said they would like to be different if that were possible.

These data tell something about children's awareness of how they spend their time. Parents can find out themselves. An example.
"When I come home in the afternoon from Brussels - I never come home from work, I come from Brussels - and we have just finished our soup, I ask the children questions. How dit it go at school ?
What have you done afterwards ? Why did the teacher get angry ? Didn't you have any time left to play ?"
In 5 minutes I get briefed about the events of the past day. I get a lot of experiences. I hear emotions. Sometimes I hear signals : continue your question; stop it, let's take another topic. A lot of data are given in a formal way. Usually I don't try to make a reconstruction of this day. I try to detect how they feel themselves; where the peaks and the lowest points were situated. I try to come on the same wave-lenght.
A bit later, when we are washing the dishes, we try as father and mother to make a reconstruction of certain parts of their day. We connect the bits of information, orden them and put the events together.

In this way parents get some more insight in the time spending and time management of their children. Yet nothing is said about the underlying processes nor about the own continuity of changes that children experience.
The National Servive for Outdoor-life conducted by the University of Louvain will therefore investigate the experience of the children's continuity, an awareness and management of time by children themselves. In this way and as a supplement to the investigation of children's time-budgets we hope to get more information on their own arrangement of time.

In this way we hope that conditions may be created in the field of school, media-supply, transport and children care, which give children the possibility to use their time in a creative way.

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Selforganisation of the Child

INTRODUCTION

The children's rights movement feels that, up untill now, too much attention has been paid to the particular problems of particular groups of children. In their opinion, it is imperative to emphasize the broad common basis of experiences of ALL children, which can be understood from the social position of children in our society. This emphasis on the common interests of children should enable them to join forces, which is deemed necessary.

This part mainly consists of reports of experiences.

The text of Bram Stuve (Holland), for example, deals with the question of how to achieve an equal social position for children, and with the attempts to share responsibilty with children, as was the case with the children's help line in Zwolle. The text of Wieger Fortuin (Holland) is based on experiences with the childrens' help line as well. A great deal of attention is paid not only to the role and the function of the help line but also to the advisory projects, which aim at increasing the fighting spirit of children.

Creating a fighting spirit is also the central theme of the text of Andrea Thienpont (Belgium). She describes the operation of and the experiences with "de Buurt" (The Neighbourhood), a pluralistic primary school in a working-class neighbourhood in Ghent.

The report of Fayez Orfaly (Saudi Arabia) can also be situated in the field of education. His text mainly deals with a particular aspect of self-organization, i.e. self-learning.

Leon Humblet (Belgium) explains the purpose and the operation of the children's municipal council that was set up recently in the Walloon municipality of Waremme. This initiative was inspired by similar projects in Alsace (France), where the first municipal council for children was established as a result of the International Year of the Child.

Finally we publish a text of the J.A.F., the Jongeren Autonoom Front (Independent Youth Front), a group of Amsterdam youngsters who are active in the field of children's rights. They deal with the problem departing from the daily confrontation with signs of oppression on the basis of age.

PURSUING AN EQUIVALENT POSITION FOR CHILDREN IN SOCIETY STARTS WITH CREATING THE ENVIRONMENTAL CONDITIONS TO THIS END

Herma Weelink
Bram Stuve

Experience and working methods of the children's helpline at Zwolle

Introduction

Children occupy a place of their own in our society. Till age 18 or 21 - when they lawfully come of age and, consequently, are socially regarded as adults-, they live in a world apart, the children's world, where they are prepared to play their part in the adult world once they have grown up. Until that time, all social activity is taboo. Children are just consumers. On the whole, the position of children is regulated according to the rights and duties of adults and child protection.

If you assign children an equal position in society, then you must also adjust the social position of both children and adults. Only when due room is created -room that is now occupied by adults- can children start playing an active part. In other words, adults will have to partly dispose of some of the things they derive from their current position. Only then will children be able to occupy an equal social position.

First of all, I would like to examine the current position children occupy in society. Then I will describe what, in accordance with the Children's Helpline vision, is necessary to alter this situation. Finally, I would like to elaborate on the way the Children's Helpline has put her vision into practice by working with people whose ages ranged from 11 to 64.

The current situation of children

Children occupy a place of their own in our society. They live in the children's world, created and sustained by adults. Adults decide on the children's rights and duties and on the things they can get in touch with, while children are solely supposed to consume. The record and soft drink industry, e.g., operate largely on their consumption.

The influence children can exert on the world is confined to their direct environment and even there, their influence is limited. Children are not allowed to co-influence either the world they live in, or the future. The future which, according to the adults, belongs to the children, is off limits to the children themselves. Environmental policy, traffic safety, the arms race, all these things are important for the present and the future of the children's world. Yet, they cannot affect these. That influence is reserved for adults.

The social influence a person can exert in Western society, is mainly determined by that person's participation. Just think of the dire straits of the many, unvoluntarily unemployed people, who risk losing their grip on society. For adults to be non-active in society, is generally considered a deficiency. For children, however, it goes without saying.
Children are the object of many things, such as education, training, etc. These processes reveal a one-way communication : the adult produces, the child consumes. The child's possibilities and qualities are totally ignored. Apparently, social productivity does not suit the child and consequently such activity is not stimulated.
Many institutions deal with children, but how many involve children in their work? I am afraid there are very few.
If you take the aforementioned proposition -social rank depends largely on social participation- as granted, then it goes without saying that the position of children is not particularly a very strong one.

A better position : OK, but how ?

Well then, what is needed to bring this equal position any nearer?

Merely granting children further rights is quite unsufficient. This stems from the preposition that social participation and social position are closely knit together in our society. It should also be possible for children to participate in society. Their qualities are manyfold and they should have the right to use them. Through productive involvement in our society, children may affect the world which happens to be theirs too. This may improve the position of children considerably.
Why not simply make it possible for children to show their many qualities ? Is this much worse than assuming that children have no qualities at all, or just qualities that cannot make a fruitful contribution to society.

So, first of all, we need to recognize the qualities children possess and their entitlement to social participation.

However, we should not stop at this point. Recognition by itself is not quite sufficient. Neither is the assignment of rights. Apart from the recognition of social participation, we also need to create the conditions which will make the exertion of those rights possible. And it is the adults who have to do this. After all, they created the children's world and as a result, it has become impossible for children to be active in society.

Social participation implies that you may involve yourself in the policy and decision making. Consequently, we should create opportunities for children to involve themselves actively. Adults can only offer these possibilities when they are willing to let go of a number of things which go together with their present status vis-à-vis children. I shall briefly enumerate some of those issues :

- assuming the responsibilities of, and on behalf of children.

  In addition to rights, children should also be given duties going together with those rights. The right to be actively involved in society is related to the duty of assuming responsibility for the organisation of that particular society. If children are granted proper responsibilities, then they can also be held responsible. However, in order to give children these responsabilities, adults should quit assuming them.

- cherishing expectations which result from an idealization of what children are to become.

  At present, adults burden children with expectations of all sorts. They envisage an idealization, which originates with the image adults have of the ideal child.
  Departing from the idea that a child still has to develop in many directions, it is already loaded with the demand to meet these expectations, in the course of which we simply ignore all they already have grown into. If you take it for granted that children already are people with various qualities, then it does not make much sense anymore to burden them with expectations based on an idealized image.

- Power and authörity derived from the age gap

  This encompasses many things. Just to name a few of them :
  - the power to decide unilaterally what is good and what is bad for a child and who are decent friends and who are not.
  - the power to exclude children from participation to a debate, or to disparage their contribution
  - financial power (pocket money, clothing allowance)
  - the power to determine the school choice

  I could still go on this way but I think I have made my intention clear.

- The monopoly on policy and decision making.

> It is quite insufficient for adults to merely reckon with the opinion of children. Their view too, will have to be incorporated in the policy to be pursued. Children will have to be involved in the decision making. Otherwise we cannot seriously consider this as real participation.

Only when children are responsable for themselves, when they are not burdened with an idealized image of what they should become, when they do not have to compete with the power and authority exercised by adults because of their age, and particularly when children can exert influence on the policy to be carried out and can participate in the decision making, only then will they be capable of assuming an equal social position.

How does the Children's Helpline at Zwolle put its vision into practice ?

The Children's Helpline at Zwolle has been busy for almost seven years implementing the aforesaid vision. Youths -we give preference to the term 'youths' instead of 'children'-, whose ages range from 14 to 21, occupy a prominent position in our organisation. They work as telephone operators. However, we also went beyond this stage.

The organisation of the Children's Helpline at Zwolle is structured in such a way that all fellow workers, esp. the youths, can exert real influence on the policy. The organisation is composed of 4 groups, viz.:

- people representing society
- telephone operators
- trainers
- counsellors.

Each group has its own tasks and responsabilities. The management committee is informed on the opinion of every group through representatives who, consequently, participate in the decision making. They should make sure that every decision is supported by every group, and certainly by the telephone operators. Every decision should be taken initially with an unanimaty vote. If this does not turn out feasable, then the decision is postponed to the next session and only then can the decision be taken with a majority vote.

Apart from the management committee, the Children's Helpline has also a policy council. All fellow workers are members of the policy council, whose job it is to steer the chosen policy and to check and confirm the policy pursued. The council too must make decisions with an unanimity vote. If this does not work, then decisions can be taken with a two thirds majority vote (two thirds of the total number of votes). As the youths, constituting the telephone group, have the highest number, you can quite easily argue that the youths' impact on the Children's Helpline is very high indeed.

For the past seven years, since its foundation, the Children's Helpline at Zwolle has had many excellent experiences in working together with youths. It turns out that they seize every opportunity with both hands, and that, for years on end, they have delivered a constructive contribution to the Children's Helpline. It also turns out that adults, active at the Children's Helpline, learn much from the youths and vice versa. The Children's Helpline at Zwolle operates very well. This is due not in the least to the many youths active in our service.

We reckon we may conclude from our experience at the Children's Helpline at Zwolle, that an equal position for youths/children should not remain in the thinking or planning stage. On the contrary, it can and should be put into practice.

MAKING CHILDREN ASSERTIVE : THE CHILDREN'S HELPLINE AND ITS INFORMATION PROJECTS

Wieger Fortuin

The Children's Helpline is in the Netherlands the most widely known type of youth assistance among children. We do our utmost to inform children of our existance and make our telephone numbers known. Seven out of ten children in the age category round twelve years know that the Children's Helpline exists. But some things may still come as a surprise. Let me give you an example. It was decided during an internal meeting at the end of November that the children's helplines could switch to the possibility of children calling us for free. A small boy called us, less than a week later, to inform when this free calling business would begin. No one knows how he got to know that it would become possible within a year to call the children's helpline for free.

The Children's Helpline

It looks sound to me if, first of all, I would tell you what the children's helpline is and which place it occupies within child- and youth-assistance services in the Netherlands. At present, the Netherlands have 21 children's helplines which are affiliated to a national organisation. These helplines are located all over the country, for we assume that being familiar with the child's environment could be important for the assistance. If you are knowledgeable of a particular area's or a large town's peculiarities, then the child will talk much more easily. What's more, knowing that the Netherlands have more than 14 million inhabitants, some calculations will tell you that each helpline reaches 650 000 people. This is a very high density, by foreign standards. Next to the Netherlands, West-Germany has also a relatively high number of helplines. The greater part of the countries where children's helplines have been set up, must manage with one or a few offices. Sometimes this is a deliberate choice, as in Great Britain, where a central national children's helpline has to cope with more or less 700 calls a day (this implies, of course, a large organisation). In most cases, however, this is due to lack of attention or money for this kind of assistance to children. This is, in my opinion, the case in countries such as Belgium, France, Italy, Sweden and Norway.

Back to the Netherlands. The 21 children's helplines handle 60 000 serious calls every year. This amounts to 170 calls every day. I'll get down to the subjects children call us about in a minute. But first, I want to examine what the children's helpline can do for children who call us and what children expect when they get in touch with us.

Probably the most important thing we can offer them on the phone is support. As we take our time to listen to the child and take his/her story seriously, the child feels strenghtened vis-à-vis the difficult situation he or she has to cope with. In other words, he/she notices that he/she is not all on his/her own. We can tell, e.g., that other children also call us on that subject, and we can show that we accept the child's own experience. Acting on the information given by the child and within the child's possibilities, we determine, together with the child, what this situation means to him or to her, how it feels and what can be done about it. Our starting point is that the child can always count on our willingness to help him or her in a way that enables him or her to go on.

In addition to offering support, it is of the utmost importance in many conversations to give correct information. The famous saying that 'Knowledge is Power', applies to children too. Information can help them make a choice or help them understrand the situation they are facing. As to correct information, I am not referring to giving the right answers to homework (though these questions do occur). I am rather thinking of questions such as :

- if your parents are getting a divorce, who decides who is to live with whom ?
- how do I use a condom ?
- can my father beat me ?
- what's the average pocket money for a 14 year old ?
- do I have to go to school when I think it's boring ?
- where can I live if I do not want to live home anymore ?
- do I have to make love to my boyfriend if he wants me to ?

Handling subjects systematically and thinking of alternatives is another important part in our conversations. Children are often in the middle of an alteration. They do not know anymore what started it all or, what they want themselves, and what may happen next. This does not happen to children only. Adults too often feel the need to talk about the problems they are facing with a confidant(e) from their environment. By doing so, one gains insight in one's problems and, particularly, in a way to make progress.

Relegating is at the bottom end on the list of functions we perform for children. When a child calls the helpline, he/she expects someone to talk to. In many cases (cf. the above-mentioned functions) sufficient assistance is offered so that the child can carry on by itself. Still, situations remain when telephone assistance does not suffice. Then, a relegation is due and consequently, it is made.

The above will have made it clear that the children's helpline can offer support, information and help to children who are in need of one of these, and that, time and again, these are offered in such a way that the child, who can call us anonimously, can carry on by itself.
The child will have to carry on in its own environment. This is very important for the attitude we adopt towards children and for the information projects, which I am going to talk about later on.

I promised to inform you of the problems children call us for. If I would jump to the information projects at once, then you would see that we are not led, in the first place, by the number of conversations on a particular subject.
The subject's nature, are there any other organisations active in in this field ?, is this project feasable ? : these factors determine whether or not we will be doing an information project. But, let's have a look at the figures first. Every year we handle more or less 60 000 conversations. 65% of the callers are girls, 35% boys. As to the percentages for every item :

- emotional problems (suicide, among other things)	1,5 %
- body, looks, illness, menstruation	5,0 %
- sexuality (both information and experience)	31,0 %
- (fear of) pregnancy	4,5 %
- falling in love	11,5 %
- school	2,5 %
- being pestered	2,0 %
- mistreatment, incest, rape, assault	4,5 %
- (fear of) divorce	2,0 %
- problems at home with parents or brother/sister	9,0 %
- info questions (further classification not possible)	9,0 %
- short conversations, not aimed at a particular problem	4,5 %
- various	9.5 %

	100.0 %

Girls start calling in large numbers from eleven years onwards, boys from thirteen years onwards. The 15 year-olds are the most frequent callers. Beyond that age, the number decreases quickly. Adults call every once in a while but that remains a very rare occasion. We relegate to another assistance service in more or less one out of ten calls. We only know of a very limited number of conversations whether or not the child made use of this relegation. Children need not give their name.

The following will conclude the information on the Dutch children's helplines. More or less 500 volunteers and 10 professionals assure all the functions all over the country. The Dutch government bears all the organisational and personnel costs. This year costs will amount to ca. 0.6 million dollar. It will become possible in 1988 that for every children's helpline (to be phoned to for) free. These costs (more or less 300 000 dollar) will also be borne by the government.

Finally some comment on the position of the children's helpline among other youth-assistance services, before I start talking about the background of our job and our information projects.
The children's helpline is an easy way of asking assistance autonomously and is directly accessible for children. Because of these reasons and because they can remain anonimous, the children easily get in touch with us. Though no comparison of the actual figures has taken place, I dare say that the majority of self-reporting cases of mistreatment arrive at the child-protection services through the children's helpline. But, taking into account all the youth-assistance services, then the children's helpline plays only a very small part.

Other organisations give therapies, assist children with emotional problems, take care of accomodation in case of a crisis, accept guardianship, place children in a home or a foster home and provide assistance. The children's helpline does not partake in in all these cases, needing a protracted form of assistance.

The Children's Helpline : Background Information

When we are talking about children, we are always bearing in mind the eleven to sixteen years age group. They constitute the largest group who uses the children's helpline. This is also the target group of our information projects. However, we pay more attention to the eleven to fourteen years old than to the fifteen to sixteen years old. We assume that the fifteen to sixteen years old can take advantage of the material we make for the eleven to forteen years old. If you aim at the elder children, then you are really skipping the younger generation.

The children's helplines are not founded solely for offering children help, information and assistance. This remains our most important job and the one we are most known for. However, standing up for the children's interests, helping children gain insight in their position, coming up for a child's own contribution, however small or large it may be, all of this is part of our job too. We felt that a child should be recognized as an individual with his or her own particular possibilities, with his or her own contribution and feelings, which should be respected. Consequently, you will find a common denominator in all the functions we perform : we try to assist children in their development towards assertivity, self-reliance and coming up for their own position. As such, the children's helpline should be considered part of an evaluation which has been growing over the last ten years, viz. the emancipation of children.

The projects we realize have much to do with this and are based on the thousands of telephone calls. These conversations prove how difficult it often is for children to stick to their own feelings, their own questions, their own interest. I do not mean to say that we always assume the child to be right and that consequently self-willed parents, autoritarian teachers and profit-orientated ad boys are always ill regarded. Things are not that simply, as you undoubtedly can tell from your own experience. To us, it is very important to :

- give children information that is both understandable and easy to use;
- make children aware of their own importance in the whole;
- point out the possibilities that help them cope with a situation and make them less dependable.

We also clearly address ourselves to the adults. Sometimes the parents, in other cases general practitioners, social workers or teachers.

We also point at :

- the way in which they overlook children as interlocutors;
- the possibilities to come to a better understanding of a situation, together with the children;
- how they can help children who dare not speak about a problem, overcome this threshold.

If I tell you how we set up and execute information projects, then these are the points you should be able to recognize. Still, let us be honest : our projects are on a small scale basis and do not always obtain the preset goal.

The children's helpline and its information projects

In order to function properly, the children's helpline needs regular coverage by the media. This, I do not consider an info-action aimed at making children assertive. It is just a matter of informing children of the helpline's existence and of the kinds of problems they are dealing with.

Information projects aimed at raising the children's assertivity can be roughly divided in two groups :

1 guest courses in schools : a broad range of subjects is dealt with, sometimes in a playful way, sometimes in an informative way.

2 information projects with a particular subject are aimed at raising the child's possibilities to act in accordance with its own understanding. This second category is more farreaching and can again be devided in two forms, viz. :

a) aimed directly at the children themselves
b) aimed at the way adults treat, help or approach children.

1. guest courses in schools

Imagine a classroom full of twelve year old children. These constitute, for the most part, the groups with whom we make contact through the children's helpline. But, first of all, we contact the school management or the teacher; in a rare case, consulting the children's parents is needed to get the permission for the guest course. Those preliminary talks, in particular those with the parents, have an important function. They would like to know what those helpline people are going to tell their children. They are particularly interested to know whether the children will not be incited against their parents. Of course, we do not do this. Or, should one, at second thought, say : no, we do not do this, but we hope that children will take up a clearer and more independent position towards their parents. For, what do we really want to achieve ? Yes, we want children to get a better understanding of the evolving situation they are living in. We want them to learn how to come up for hemselves. Not just going along with something they are asked to do, but also thinking for themselves, what do I want and what do I feel ? The result may be somewhat less pleasant for the parents. This is not the purpose. The purpose, as I have just said, is : granting the children themselves more understanding, more possibilities. At the same time, we are quite aware that the possibilities of a child are limited and that a child should be able to live in its own environment.
Fortunately, by far most children go to their parents with their problems. The extent of social assistance and child protection would become unsurveyable unless most of the assistance was offered in the child's direct environment without any intervention by whatever organisation. We are quite aware of that and we sure appreciate it. What's more, in most cases we advise children to go their parents with their particular question. We shall help them find the proper moment or the proper words to express what they want to say. Still, they will have to do it themselves, we just help them to take the necessary steps. This being said, let us now return to the guest courses and their preparation.

A prediscussion of the courses-to-come is important for the fellow workers too. You are obliged to make clear what it is exactly you want to achieve with a guest course. And that is :

- offer children acknowledgment of their own experiences;

- emphasizing that they can take steps, take the initiative to escape from a tedious situation;

- pointing out the possibilities of obtaining information;
- giving examples of ways to approach a problem or a question creatively;
- making children familiar with the children's helpline's existence;
- indicate that they can seek help in many places when they cannot solve a problem;
- make it clear that everyone has a bad time now and then; so when they are up against a problem, they need not think they are alone;

Of course, a real evolution in one of the above-mentioned points, requires more than just paying attention to them during one hour of class. Still, we can tell from the children's reactions that they are offered possibilities. Possibilites they say they intend to use.

So far, I have not explained how these courses are set up. It is a mixture of short role-playing games, played by fellow workers of the children's helpline and discussed afterwards by the children, and role-playing games, played by the children. Some helplines pay more attention to the role-playing games than others. A few use a video recording, played on the spot, instead of the role-playing games. The pupils' attention is best captivated by an illustrative and emotionally instinctive approach. The discussion afterwards returns to what you feel yourself about this or that problem (cf. the list of telephone topics) and what you can do about it. For yourself but also for your friends.

As a development towards a more independent behaviour is more likely when continual attention is paid to this, the teacher's attitude is very important. He or she sees the the children five days a week, (usually) knows them well and has in many cases a more or less intimate relation with the children (in spite of all the criticism on education, this is mostly the case). A continual effect can be expected when the teacher following the guest course, keeps paying attention to the children's small and big problems, keeps giving them information, and shows them the ropes in the subjects one comes across when growing up. Just think of a child's sexual development, a topic that raises the largest number of questions.

Teachers should keep working with their class and the guest course, if done properly, offers them a few more possibilities to help the children. Teachers who invite us to give a course, are quite aware of that. Far more interesting is the question why some schools do not invite us, or why they maintain that their children do not have any problems, even when we keep insisting or, following talks with the parents' council or school management. This may happen too.

2. Information projects on a particular subject

A. PROJECTS DIRECTLY AIMED AT CHILDREN

In view of this paper's theme, this chapter will have to present some very concrete answers to the combination of 'saying one's mind', information projects and the children's helpline. In this context I am going to refer to three projects, each of them with a different character and in a different stage.

* The first project, the divorce brochure, was made up a few years ago (but it is still making itself felt).
* The second project on preventing child abuse and reporting oneself as a case of child abuse, has been outlined but is still in need of financing.
* The third, on assertivity training for children, who are being pestered, has just started.

I shall describe them briefly.

The divorce brochure

We regularly organise a more profound investigation of the conversation topics we are called on. Six years ago attention was paid to children whose parents had divorced or were about to. This revealed a lot of information about the way children regard the divorce, how they experience it, and especially how sad they think is is. It also became clear that children were very ill-informed about almost every aspect of the divorce. Obvious things are all of the sudden going astray : one of parents is leaving the house, or people are coming in and watch what is going on, and, what's more, these people turn out to have some kind of power. And what are judges, social workers, sollicitors, etc ? Where am I going to live now and what is going to happen with my name ?
From our data emerged that children were ill-informed on the formal aspects of a divorce, and that the parents were often involving in the children as a party in the divorce procedure. A brochure, readible for children aged more or less 12, was written on the subject. The brochure was also brought to the notice of the press, social workers, lawyers and judges during an afternoon work shop. Many sollicitors and social workers, active in divorce cases, give the brochure to the children in question. An inspection copy is available in all Dutch libraries. Children can order a brochure at the Children's Helpline. And if they dare not receive it at home, then we send it to another address they give us. We cannot act as a party for the children in a divorce, though we sometimes wish we could. What we have been able to realize with this project, is helping children gain an understanding of what a divorce means and of the role they play in the divorce. Less dependency, a better view on one's own possibilities.

Preventing child abuse and reporting oneself as a case of child abuse.

As indicated earlier, a registration-investigation, with respect to the phone calls we had on child abuse, was carried out four years ago. Through this investigation we tried to discover what the children themselves discern as assistance possibilities. Children often pointed out that they had been let down by adults, even by social workers, and that instead they got support from children from their age group.
This led us to believe that children can play a part in seeking assistance or offering support in a case of child abuse. Though this may stir you quite a bit, we do remain very realistic. In case of child abuse in a family, it is still the adult who will have to interfere or offer assistance. However, it may take many years before the child abuse is 'discovered'. We would like to set up a huge information campaign that stresses the following points :

- children who are mistreated, do not leave it to that, do not take this for granted, but stick to your own emotions;

- if you are mistreated, try to breach the secret and look for a confidant(e) to talk to, and the two of you together may think of means of support;

- pals, do take stories from your friends seriously, give them your support and help them in their search for a confidant(e) who may offer some support.

This project is quite clearly aimed at activating a child's potential contribution in discerning child abuse. Thus it becomes possible to end cases of child abuse in a much earlier stage. This project starts from the idea that a child who is being mistreated is not just a 'will-less' victim, we can also point at the possibilities it has to take steps, which, we hope, will put an end to the abuse.

Assertivity training for children who are being pestered

At present, we are still collecting the material for this project. Pestering has been the focus of much atention in recent months. Yet, I cannot say that we have to deal with more phone calls on this subject, compared to a few years ago. Apparently it does not happen more frequently than it did in the past. It is getting more attention, probably for the very same reason, we chose to pay more attention to it.
Pestering is a common place thing. Everyone experiences it : as a bystander, a victim or an inflector. It is quite possible that one moment one is the bystander, another moment the victim, and yet another the inflector.

Many children simply cannot escape from their role as a victim. The environment -being mainly children from their onw age, and class mates - will also do everything to keep it this way. What we are trying to do with this project, is raising the (potential) victim's assertivity. When you succeed in assuming an active disposition towards pestering, then it reinforces your possibilities and it discourages the children who pester just for the fun of continuing. This is our most direct assertivity project within the limitations imposed by the title of this paper.

One may conclude from the above-mentioned projects that we have much faith in the child's potential to stand as a party of its own. Even when they find themselves in a problematic situation, this does not make them totally dependent. They can always count on us to support them when they want to stand up for their own position, on the basis of their feelings and opinion. Still, we do not go as far as to state that they can arrange their own help. Whatever possibilities they are given, children remain largely dependent on the position adults place them in.

B. PROJECTS AIMED AT THE ADULT ATTITUDE

You have already made it out : we take it for granted that children, being independent individuals, can ask for help independently. By this we do not, all of a sudden, declare children adults. On the contrary. We know that children need to have adequate possibilities at their disposal to bring up their question, as well as to get answers they can understand and handle. And that their understanding and handling potential is limited. All the same, we want to offer them the best of possibilities. This also holds true when we meet other assistance people, as is apparent from the text below.

Girls, sexuality and the general practitioner

Girls who visit their general practitioner because they are pregnant, or are afraid or believe that they are, are not taken care of properly. Not only our own experience led to this conclusion. Other assistance people too, involved in this kind of problem, came to the same conclusion. Next to the very positive experience with general practitioners who do some excellent counselling and make the approporiate reference, stands an equal number of bad experiences with general practitioners who leave girls asking for help out in the cold. Consequently, we wrote a brochure, together with other people, for general practitioners. This brochure presents some indicative rules (of thumb) they can use in a case a girl comes to them with questions on sexuality and pregnancy. This small brochure was sent twice to all Dutch general practitioners.

Do not miss out on that child

As to child abuse, I have made some reference to a project that had been developed but has not been carried out yet. In the meantime we have made an info brochure for people offering assistance (again together with other

people). The basic thought behind it relates to our project on preventing child abuse and on urging children to report themselves as cases of child abuse. When children can or want to ask question to assistance people, then these people need to be prepared for this. So the brochure points at some of the factors which make it more difficult for a child to cross the threshold and ask for help in an institution.
A number of examples illustrate how an institution can lower these 'thresholds'. This information too was sent uninvitedly to institutions we feel should be accesible to children.

Deliberation platforms

Dutch organisations try to improve their assistance on many levels through deliberation between all of the organisations involved. The children's helpline has a representation in the deliberation platforms on divorce and incest. Most attention is paid to two points in particular, viz. :

- Developing new methods and exchanging experience;
- Pointing at gaps in the range of assistance services and starting/developing new forms of assistance.

The children's helpline contributes its own experience and pays much attention to the development of assistance possibilities children can appeal to independently.

Making children assertive

I have already talked about the kind of work we do on the telephone, on the information projects we perform and on the prevailing background.
We at the children's helpline would like to see assertivity raised with children in little but important things, such as :

- make sure you are well informed;
- do not adopt a dependent attitude;
- try to find possible solutions to a problem;
- take it for granted that you have a say in the matter too;
- try to make clear what exactly it is you want;
- seek support and help if you need it.

'These points are generally accepted truths in social work', you are about to say, 'and certainly not of a revolutionary kind';
True, but in practice we experience every day that these starting points are less commonly accepted where children are concerned. This is due, not in the least, to adults. In the exertion of their profession or in their private life, they hinder children far too often, to get their own way as to the abovementioned points. This way, they also curb their development towards independency, which will be much required just a few years later.

Ombudswork for Children

This conference is about ombudswork for children and so I would like to make a comment on this subject. In advance no indications were given as to the content of the concept of ombudswork. A few years ago I was given the honour of carrying out some research on this concept and soon I found out that everyone was giving his imagination free rein when hearing the word 'ombudswork' or 'ombudsman'. I sure hope that during this conference we can learn from one another what we exactly mean by this word. It is already clear in which direction this word is developing. Ombudswork for children should come up for the children's rights, their interests, and maybe even for their contribution in all of this. This concept encompasses individual and collective elements. Political and economic elements. Social and cultural elements. Judicial and humanitarian elements.
Setting up some kind of ombudswork for children seem so all-encompassing that one organisation alone can barely realize it.
It is rather a job for an international, national and local cooperation pattern.
If you want to pay particular attention to individual help for children, then please call the children's helpline. I am very confident that something beautiful will come of it.

'DE BUURT' : TRAINING ASSERTIVITY IN PRIMARY SCHOOLS

Andrea Thienpont

Introduction

This text advocates an early start with training assertivity to children and, consequently, with the integration of this training in primary education. Following a brief explanation on what is meant exactly with assertivity, I shall introduce 'De Buurt'. 'De Buurt' is a primary school where, among other things, assertivity among children is a target objective. Next, I shall elaborate on some of the means used by 'De Buurt' to reach this goal.
It is so to speak impossible to focus on one facet, i.c. assertivity, seperately from the coherent entirety of aims, principals and methods. Thus, this may strike you as a somewhat forced explanation. Still, I hope that within the context of this congress, my contribution may incite a debate.

Assertivity

Assertivity means reacting in such a way that you show respect towards yourself, others and your environment, with the purpose of contributing to your own development and the development of others. This also implies that you defend yourself against whatever influences you or your environment in a negative way, or attacks them, or renders them unsafe.
As it is the case with all skills, reacting,and defending yourself, has to do with disposition, motivation and training.
A child's specific disposition should be positively accepted and fully explored. Skills are learned and motivations are coached. This too is mainly a school assignment. The school sometimes requires assertivity at exceptional moments. But it tends to forget that one bites the dust when required to make a pirouette without prior training or exercise ... The way children master assertivity, conforms to this line of thought. Sustained training and exercise are needed here.

De Buurt : A situation summary

Presenting a brief outline of the nature and working of 'De Buurt' is important for a better understanding of how this assertivity training fits into the programme as a whole.
'De Buurt' is a pluralistic primary school located in a working-class area of Ghent. People involved in pedagogy and education started it up in 1973. It can best be described as an example of educational community work, which, on the one hand, bases its view on man and society on Carl Rogers' principles, and, on the other, aims at socialization. It cannot be classified among the existing

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methodical schools. It is an all-in organization with a look of its own, using existing educational systems and techniques, in addition to its own attainments.

Development

From the very beginning, 'De Buurt' has chosen for self-directivity, self-management and co-management, and a critical attitude towards the social structure. These are, among other principles, not exactly obvious basic principles, in comparison with those of traditional schools. These basic principles form the backbone of both the guidance and the whole management. Contrary to the working methods and the means, they are not easily definable nor determinable in time and space.

The following is a brief description of some of the important means :

1. Community and housing
   As to housing, a choice was made in favour of a large ordinary terraced house with an infrastructure, typical of a home, for one thing, and a work environment, for the other. Recruitment is preferably performed in the area.
   The communities are composed of people of three successive ages, together with two supervisors (a man and a woman). Psychological as well as pedagogical and didactical reasons exist in favour of this choice.

2. Projects and theme-related exercise weeks
   Projects are all-in approaches of children's problems with the purpose of obtaining a product that meets their needs. It is the children themselves who, assisted by the supervisor, move through this process from the problem stage to the solution stage. It is the didactics of instability.
   These projects are followed afterwards by short but equivalent periods during which techniques such as reading, calculating, writing and speaking are trained in a theme-related way. Gaps in subject matter or techniques are filled. We also try to distill the essence from every project. At this stage we also opt for differentiation.

3. The parental participation is integrated to such an extent that, without it, 'De Buurt' would simply stop existing.
   The basic principles notwithstanding, the parents are involved in every aspect. Although very difficult, it is also very enriching and fruitful work.

4. Through its educational community work, the school operates as a component, a bridge to raising consciousness and education in the whole area.

We will notice shortly that these four means themselves constitute guarantees for creating assertivity.

Leitmotiv	Back to essence	
Basic principles	Being oneself	Being together
integrated in every action	- self directivity	- self-and-co-management
	- learning by experience	- critical attitude towards society
	- absolute religious dimension	- neighbourhood-oriental
	- principle of entirety	- historical and geographical reconstruction
through		
concrete means definable	- communities & housing - projects and theme-related exercise weeks - parental participation - educational community work	
with		
contents definable	- material-renovating and acquiring methods - reading, writing, speaking and calculation - ready knowledge and extensive learning material from the projects and the theme-related assimilation	
and		
evaluations		

The Basic Principles of Self-Directivity

Self-directivity means taking your own decisions, alone or together, based on a correct and positively accepted self-image and on an understanding of the environment, which should be as extensive as possible. These decisions should also be assimilated in a way that is constructive for oneself, the others and the environment.

Self-directivity and socialization go together because we act among and with people and we ourselves constitute the frame for others to act in. This description enables us to crystalize some of the school aims.

- In order to get acquainted with the world as objectively and thoroughly as possible, children must acquire knowledge about this world.

Next to techniques and ready knowledge, methodes for acquiring and assimilating subject material are very important.
The subject material should be adjusted to their world and age and should invite them to go a little further. Learning by experience is the only way to arm a child quickly with an integrated stock-in-trade. We are, at present, not talking about the didactic approach at 'De Buurt', in the narrow sense of the word.

- Children learn about their capabilities in very varied situations. If the situations children experience constitute any problems, they will do their utmost to solve these problems. Chances are high then, that the children acquire a more correct self-image. Within the context of learing together, children should be permitted to develop their capabilites to a maximum.

- A child learns to discover its gifts and becomes aware that there also exist gifts it does not possess. It is important that it accepts itself positively. Thus, we avoid that they grow into adults without inner peace who keep squandering lots of energy to pursue realisations that cannot conclude well. For that reason, it is important, e.g., that the supervisors evaluate the child's work and actions and not the child itself. "This paper is too sloppy to understand. It cannot be sent off" means something entirely different from "You are really impossibly sloppy, you don't show any respect for the reader". Pointing at the result gives indications about one's possibilities but does not judge nor condemn a person. This course of action leaves the gate open for further growth and development and avoids identification with negative opinions.

- A supervisor should always bear in mind that every child is unique. Weak nor strong elements should be punished with the strait-jacket of average conduct. This strait-jacket materializes, e.g., as the scoring system. In turn, this sytem functions as a big stick with no other reason than to strike those who do not conform to the specific standards of a small part of society. Focusing unilaterally on aspects who constitute only a small part of a person, curbs ones's development.
  Seldom do we hear parents or teachers discuss how happy a child is, or how friendly, or whether it amuses itself, or how it functions in relationships. We are always talking about its school results (abstract-theoretical level) and sometimes about its physical condition, esp. in case of illnes.

- Society, teachers and parents should realize that people react out of and with emotion (holistic principle).
  Example : I, pupil, am afraid of the teacher. So, most of all, I would like to avoid the teacher. Unfortunately, this is not really possible as I have to attend class. If I could call on someone to discuss my fear, it would become less of a burden. My fear would become acceptable, I would not feel as bad in comparison to others who do not experience this fear. If I did not suffer from this inferiority complex -the result of these fearful feelings-, there might be a chance that I, alone or with others, would seek a solution and would handle this teacher's lessons differently... However, this scenario seldom holdes true.

Mostly one gets laughed at because of such feelings : "He won't bite !". Sometimes angry reactions are uttered too : "You sloppy drip, you'd better pay more attention", "This won't get you a higher score", "I wasn't afraid of anyone".
Still, those feelings of fear will not go away and I am getting entangled in them. I do not function properly anymore, or I am eliciting extreme conduct - ... This causes the teacher's indignation to become mine ... the circle is closed. This way, children learn to compensate negative feelings by fake solutions. Our society approaches emotions too rationally or even ignores them. Emotional manifestations are quickly labeled as "not capable of rationality", "no class", "uneducated" etc.
Living with the idea that emotions should be excluded or suppressed, is inhumane.
Children are quite often victimized in our society by the muddled emotional experiences of adults, e.g., parents who force their children into choices or into a particular behaviour as a way of solving their own frustrations. Teachers are often equally quick to issue the most idiotic regulations and punishments to maintain and prove their own superiority. Belittlements and minimizations are legion when they suspect utterences of 'maladjusted' emotions. Children are taught to attach importance to surrogate values, which have nothing in common with universal values.
We must teach children to discern their emotions, to accept them and to work with them.

- Assertivity presupposes a correct view of oneself and of others. This is why being sincere is so important as well as accepting other people's individuality. Many talks, specific projects, group discussions, the relationship supervisor-child, etc. teach children to registrate someone else's vision and emotions without feeling besieged by them, or feeling responsable for them. This way, seeking solutions comes about more soundly.

- During the whole process towards self-directivity, both children and supervisors must summon courage and daring "to give themselves away". A general feeling of safety is therefore very important. 'De Buurt' is quite serious in this matter. Supervisors should take the development level of children into account : they must get the freedom and responsibility they can cope with.
  An approach that is too authoritative or too 'laissez-faire' curbs one's development : it creates tension and makes people confused.

Norms will regulate social traffic. Together they are written and together peolpe watch over their observance. A flexible organigram makes sure that the children know what is going on in the school for they are freightened by ignorance. They utter ideas, take part in the thinking and working, show understanding and empathy for all sorts of situations. As the parents take part in the school's management and functioning, continuity is achieved on the level of family, area and school: all constitute one living sphere. E.g., the school's door is always open for parents; every other week there are project preperations, etc.

We have already discussed the housing with its ordinary, human character : sitting area, workroom, a kitchen for every age group, garden, no seperate common-room for teachers, etc. Meetings for every age group, even consuming healthy and beautiful food together, add to safety and communication.

Self-Management and Co-Management

Self-management and co-management presuppose making an analysis of and judging the existing reality. This requires not only insight and the opportunity of co-deciding within the given structures, but also a particular mentality. Many classes on conference and conversation techniques, organizing etc. do not make the people involved refrain from speaking at the same time, from fighting for leadership, from withdrawing, and from messing up endlessly as to arrangemnts, realisations, etc.
Self- and co-management are not learned just from insight, but through experience from childhood on.
The stages according to M. Lobrot, constitute an excellent frame to situate this training.
The way "De Buurt" functions is through the continuous embodiment of these five stages, e.g., the administrative and financial openness. Every step towards macro-management is discussed and decided upon in group. There is no board of directors, there is an administrative managerial function, etc.
From a pedagogical-didactical point of view, the project-oriented activities are continually recurring realisations of the aforementioned stages.

- 1st stage : First of all, one should be able to take the floor in order to have one's say in things. Children can talk very spontaneously. Let them talk, and a great deal, and let them listen, and also a great deal. They will do this most easily in the appropriate atmosphere. Particularly at the beginning of a project, but also with every adjustment (or group discussion, or meeting) the children sit in the cushion corner. The supervisors, sitting among the children, do not warp the discussion in their direction. It is of the utmost importance that during the conversations or when the children are writing down their ideas spontaneously, the teacher does not 'correct' the child's language. A six years' old child had never written down anything anymore from the moment the schoolmaster had expertly corrected its first, spontaneous, enthousiastic but phonetic sentences.

- 2nd stage : Still, their language usage should be polished and trained. Children ought to learn how to express their ideas in a verbally acceptable way. During the exercise week, this is done in the traditional way. But during the project, the children are remedied mostly spontaneously. In case of discussion, proposals, evaluation, summaries, etc., the children are asked to make themselves clearly understood. If this is not the case, then additional questions are asked or help is offered. This spontaneous remedying is easily accepted as both children and supervisors want to reach a solution.

- 3rd stage : "Only then is the joy of persuasion genuine when you consider the others able of persuading too." Being able to persuade as well as to accept are two important attitudes which 'De Buurt' encourages. Here, the supervisor's role as an example is quintessential. If children and supervisors formulate proposals and seek solutions, and if nothing of this was fixed in advance by the supervisors, a game of 'granting and taking' will develop. Through this game all the children can see themselves in the right way because of the variety of their gifts and the variety of the projects.

- 4th stage : Although the children are not really up to seeing through social structures, they can learn to discern and to handle some of the most frequent dimensions. Neither the non-stop talker, nor he who prevents the others from saying what's on their mind, will always be put in the right. Simply because the children are learning little by little that they will not get far in solving a problem with a strictly individual approach. They learn to be objective about and critical towards what is being said and done. They will not be chosen on the basis of 'the form', 'the wrapping', for they have learnt that the form will not get them one step closer to the solution. They also discover that they have to take care that no 'co-worker' drops out, and that feeling safe and sound in a group makes working easier.

- 5th stage : Children learn to organise the execution of tasks. As said before, the supervisors do not prepare the projects in advance but seek solutions together with the children and parents. All aspects of organising and realizing something is the children's task and responsibility. Mind you, we never ask the children to do more than what they are able to handle! This is an important and lasting concern to the supervisors.

A Critical Attitude towards Society

Assertivity implies one's ability to determine one's place in society - in the broad and the strict sense of the word. How can I participate in solving the needs of others, as well as my own, if I am not knowledgeable of the norms imposed or the possiblities offered in my environment.
A child should grow into the existing order of society. This does not mean it should reconcile with everything, or isolate itself, or develop aggressive behaviour. What this means is that it should adjust in case of a positively experienced criticism or seek solutions in case of a negatively experienced criticism on society.
A child needs norms in order to make a judgement, in a positive or negative sense. Here too the school plays an important part.

- Children grow up with the norms of the family - in the broad sense of the word. This is necessary to ensure the child's conscientious development and safety. The school should respect those 'tribal norms', without any tampering.

- Inversely, the school may not defend nor acquire a particular set of values.

Children as well as schools will often identify with those 'tribal norms'. 'My values, the best!' leads to sectarianism. 'My value, the one and only!' is close to indoctrination ...
Children quickly turn into adults who quit asking themselves 'Are my values and norms commonly humane?

Hence, 'De Buurt' does not pick up any specific 'tribal norm'.
Pluralism is really needed here in order to approach society, and its distinct 'tribes' on the basis of their common, human values.

- Only when they can really experience this, children will learn to coexist respectfully. All sorts of situations, people, religions, social status, the school itself, the area, etc. operate as a kind of mirror-image of the social reality.
  A somewhat surprising respect for each other's social experience grows by living there and having the children talking and listening a lot. This way they get to know someone else's vision, beside theirs.

- Classes on racism, injustice, solidarity, etc. are not given formally, they are experienced.

- Commonly human values are the only ones used at 'De Buurt'.

- Social problems are widened to a national and global level in the third age group, in view of the enlarged historical and geographical orientation, typical of their age.

Assertive is what children become when they have learned to respect the distinct ways of shapening a society, when they have learned to find thier own place in society and when they can approach that society in a creative way.

The following are a few simple, concrete experiences which we are delighted about.

- A 12 year old child asked the teacher of the first year of secundary education : "There are problems in our group, sir. We quarrel far too often. Could we organize a group discussion?" /
  "What could that be? That doesn't exist here, lad!" / "What are we going to do about it then, sir?" / The teacher felt a bit intimidated at first, but he then brought it up in the class council and, after some thinking, the request was complied with in one way or another. When a child approaches a teacher more objectively, more as a fellow man, and less for fear of 'menacing situation', then something has changed indeed.

- A group of 7 to 8 year old children mobilized parents, supervisors and the whole area to wrest a play ground from the city council. They also pushed, on their own, a well-presented case for zebra crossings. They attained both.

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- The majority of the 11 to 12 year old children could, without noticeable strain, take the floor, enumerate facts, formulate proposals, etc. because they consider you and me as equal partners within the context of this happening.

- A 12 year old child, whose abilities, after testing, would predetermine him for Special Technical and Vocational Training, surprised everyone with its social skills, its communicative ability, its sound judgment.

- A 9 year old child says : "If you are having a row, then you should first try talking instead of fighting. I used to fight immediately."

- Evaluation items, such as, "taking responsibility for one's task", "able to communicate its expectations", "posess realistic aims", "is considerate of other people", "knows how to cope with aggression", are all taken seriously.

Conclusion

If all these things are possible, then this bateful, vicious circle is nibbled away a bit - a circle which makes children the medium par excellence for adults with a negative self-image, who try to compensate their own inabilities, e.g., by striving for superiority, adults without genuine self- or co-management or with a poor social vision. Such children in turn never learn to act in a self-directive way, not even when they are adults. They will in turn push children into a minority position and keep them there ... and, once again, the circle will be closed.

A primary school can create an open climate to boost the requisite attitude training. If carried out in an open, safe and efficient atmosphere, the following may happen in any school.

When a boy, 8 years old, walked out of the kitchen, he asked the woman inspector (from a group of visiting inspectorate members) :
"What are you doing here?". The lady, surprised and not altogether enthusiastic, asked a counter-question : "And you, what are you doing here?", whereupon the child replied : "I live here".

SELF-ORGANIZATION OF CHILDREN

Dr. Fayez Orfaly

The cries of children are not only heard by the local and international organizations who take care of child's health and food. Such kind of easy job in which we involve ourselves, is a matter if we subjucate to any of development evaluation systems which adopt the standards of civilization evaluation, we can find the answer right before our eyes but we don't see it as the bureaucratic routine stands as a barrier hiding what is called the objectivisim of observation, accuracy of interpretation, explanation, induction and deduction. The crowds of millions of human beings living in the third world countries (South Population) compete with eachother to stay behind and live civilization disasters. All of them were a child once and lived, was raised and grew up despite of health and food backwardness, but what does it mean if we take care of his food and health ? And if such thing occurred ... if we would not take care of civilization development and scientific progress simultaneously, we would have other millions of children living in the world of perdition.

"There are 8 millions of Arab children without primary education" [1]. The biggest evidence for such thing is the conferences and research seminars held by the third world nations to discuss about child and childhood. All of them discuss almost everything but only swiftly as if they are aware of the actual problem facing the children of the third world countries get into shape : the scientific, ideological and constructive formation, construction of understanding, towards achieving the expected objectives afterward. Such sensitive matter starts with child in his first years, first months, even in his first hours not to say before the child is born. What I am calling for is to start with an early education within a highly progressive system of control and discipline through which we can reach the level of self organization due to discovering the point of contact ... which faces the levels of technological induction, [2]. This study was prepared after several experiments in the field of self organization, education and instruction for children, to conclude that the well shaped children are similar in the constructive capabilities and qualifications in all nations and people and it is possible for programming each of them according to the objective expected by the nation. The most important development job for any nation is to develop the human capabilities of its natives which is considered the greatest wealth.

The number of schools, institutions, colleges, universities or the large amounts of money set aside by the government for those institutions or the number of higher education graduates are not measurments for human and civilization development, such numbers have no significance if not preceded by the practical experience enhanced by performance. Therefore, any evidence not based on such experience and performance would be weak, poor and incompatible to developmental demands. If we have the right to check a worker's production activity, it is important to realize the worker's right to enquire if we had prepared him well in our educational and technical institutions; the formative and constructive effect always precedes the productive reaction. Moreover if we are to bridge the gap of civilization between the advanced countries we should adopt the principle of conduct civilizing in the field of preparing and building the productive man. Such principle depends on the point of contact we discover in any teaching, learning or training situation (2).

The Point of Contact :

means the geometrical point established by the contact of the circle's circumference with a straight line. If the circle moves on the straight line in one direction, the points of contact are established in a regular sequence effected by the nature of such movement and by the perception of time and place. Similarly a lightbulb will not shine until a contact occurs between the positive and negative poles. The nature of the human being in the educational situation does not differ. The human being lights up when the biological current of contact meets with the civilization current, [3] If all people have biological current of the same intensity, the reason of their civil dissimilarity is the different amount of power they get from the second current. Thus, the researcher of this study proved in a number of his experiments that if we are successful to reach the points of contact of the learner which are corresponding to the teaching or training situation, we could achieve our goals securely, so that we are able to bring up children who do not know crying [4] surmount the individual differences in learning and teaching process [5] modify the psychological tendencies and then conduct tendencies, achieve self learning of high activity, teach children the concepts and to make them talk instead of uttering ambigious sounds in their early months [6] All that can be achieved when we know how to discover the point of contact between learning situation and the learner.

Point of contact, induction levels in perception, and surmounting individual's differences in learning and teaching

The experiment was carried out in 1967-1968 in a number of elementary schools of an area situated in the south of Cairo and was supervised by the curriculum department, College of Education Ain Shams University, Cairo. The subject of this experiment dealt with the two facts : a. The level of water is the same in a number of connected tubes. b. The level of water is always horizontal in all connected tubes and stores. The researcher found that the said two facts were not fully understood and realized by any of the pupils though the teachers of science asserted that they had used the communicating vessels as a teaching aid. As such, they were using the communicating vessels appliance in a way that does not create any point of contact that leads to a right perception of the two facts. These notes urged the researcher to enter five modifications on the communicating vessels appliance according to points of contact he had discoverd. It took the researcher three and half months to achieve this last modification.

The results of attainment, comprehention and applied tests carried out on the last experimental class asserted that all pupils attained a full and complete learning which enabled us to assume that the individual differences among pupils were surmounted. Moreover, the two facts were realized by discovering points of contact that led to the necessary induction level which led in its turn to this realization.

This experiment received strong responses from the teachers of the Curiculum Department in the College of Education, Ain Shams University especially in a scientific dialogue between the chairman of Curiculum Department Prof. Al - Dumordash Abdul Majeed Sarhan and Prof. Fam Mansour who said that he had never seen such an experiment or such an appliance in all the laboratories he had visited and he added that no one had surmounted the problem of the pupils individual differences before this experiment.

After five years, in 1973, Prof. Naima M. Aid, Chairman of the Curiculum Department, Ain Shams University, wrote to the Arab League Educational Cultural and Scientific Organization that this experiment had concluded amazing results [7]. The affect of this experiment lies in its assertion of the possibility of teaching all children and students in all schools and institutes in accordance with the levels that guarantee the fulfillment of all goals, provided that the responsibles in education exert their faithful efforts to make good use of the teaching aids in order to discover their points of contact and their induction level. If it was correct that certain fields of learning were for certain learners, it is now more correct that learning is for all learners.

Another experiment in the field of surmounting the individual differences in teaching and learning process

In 1973-1974, the researcher of this study carried out another similar experiment in Al Erfan Elementary School in Damascus on the sixth elementary class pupils. The subject of this new experiment was the expansion and shrinking of liquids by heath and coolness.
The results of this experiment had emphasized that we can surmount the individual differences in the learning and teaching process, as we had proved by the previous experiment of the communicating vessels.

Self learning of children by using cards *

One of the first experiments carried out by the researcher who prepared this study, in which some advanced self organization, learning and education fields (learning by using cards) were applied, as it is considered one of the new education fields, was carried out in the applied primary school located close to Teacher Training Institute at city of Aleppo, Syria. His experiment included several cards as means for self organization of children in the field of learning and education.

By calculating the results, it was found that the level of self organization in using cards had made the children capable how to read and write well by self learning.

Points of contact and early intellectual induction levels in the field of high mental abilities •

The researcher of this study put his results in the field of points of contact and induction levels in practical application in a new experiment which he started in 1973. He tried to teach a new born baby the intellectual concepts while it was still in its second month, so that when it reached its tenth month, the baby was able to read, comprehend and apply fourty-one cards out of fourty-three cards. Concerning the two other cards, the baby understood its content but failed to pronounce them. Then the baby was subjected to a social seperation for ten months during which he used to see his parents for the purpose of specifying language influences. Then the baby had its first test carried out by the educational supervisor. This experiment proved that the most important factor in the process of teaching and learning is renewing the use of methods and technologies in a regular application to determine the point of contact so that we have suitable levels of induction. Let's read what was written about this baby on Al Jazeera Newspaper immediately after a demonstration session during which the baby read and wrote before thirty-four trainees at the Training and Applied Research Centre in Al Dereya, Saoudi Arabia, words and sentences chosen randomly out of 187 words and sentences cards, while the baby was still one year and ten months of age.

Notes

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THE CHILDREN'S MUNICIPAL COUNCIL OF WAREMME

L. Humblet

1. Origin

The idea was born while reading an article in the French weekly "Le Nouvel Observateur", concerning an initiative taken by the mayor ("maire") of Schiltigheim in Alsatia, where a Children's Municipal Council has existed since 1979.

The Children's Municipal Council will be able to benefit from the Alsatian experience. To this end we had a meeting in Strasburg with the mayor of Schiltigheim.

Waremme is, as far as we know, the first Belgian town to set up a Children's Municipal Council. This initiative will be monitored by the research team of the "Laboratoire de Pédagogie expérimentale" of the State University of Liège under professor De Landsheere.

2. Objectives

a) To associate the young in the public life and the government of the town, making them aware of existing constraints, especially financial ones.

b) To make them reflect on the projects concerning themselves.

c) To promote their civic education and awaken their interest in social life by starting from reality.

d) To make the young more aware that they are living in a participatory democracy. Though the Municipal Council takes the final decisions, it must stimulate the citizens into participation by making them feel jointly responsible for the destiny of their community.

3. Creation

A first meeting on 2 February 1987 gathered the principals of all the primary schools of Waremme, which belong to three networks, respectively organized by State, Church and Community. They quickly agreed on the desirability of a Children's Municipal Council and set about the practical implementation.
Each of the three networks was allotted an equal share of the total number of seats in the Council (3X7), to be taken up by pupils of the fifth and the sixth

grade.
As there were more candidates than seats available, elections had to be held among the pupils of these grades.
The election results "happened" to conform to three of the mayor's wishes :

1) equal representation of boys and girls;

2) equal representation of fifth- and sixth-graders, allowing half of the Council to be renewed each year;

3) representation of all the town's areas, including those who had joined the centre in the voluntary agglomeration merger of 1970.

The 21 child councillors are not the only ones to be involved. Thanks to their teachers' cooperation, all the fifth- and sixth-graders have taken an interest in the government of their town. Before the actual gatherings, the child councillors have had many discussions with their friends.

4. Organization

Three public sessions a year are aimed at. These are prepared through committee meetings.
The child councillors do not represent their schools ; they voice their own opinions as young citizens, in dialogue with their friends. Their seats are rotated in accordance with the network to which their schools belong. Their fellow-pupils are invited to the public sessions, where they can voice their own opinions from the hall.
The children have advisory powers on all matters concerning the town ; their suggestions are discussed in a committee attended by the chief officials of the town : the municipal secretary, the Chief Constable, those in charge of public works and of the Sports Centre etc.
A fund of BF 50,000 has been set apart for the realization of their projects, with the explicit purpose of teaching them how to assume financial responsibility.

5. Realizations.

1. Playground.
   The playground has been refurbished to all the children's delight.

2. Rubbish bins.
   Rubbish bins have been set up near the schools and in certain other places in order to keep the town tidy.

3. Bus stops.
   Special "bus stands" have been laid out in the streets, allowing the buses to load and unload their passengers without obstructing private

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traffic. The children's safety has increased considerably as a result.

4. Dog toilet-training.
   All dog-owners have received letters, inviting them to train their animals on the convenient use of the gutters.

5. Sticker.
   A sticker has been designed, inciting motorists to respect the speed limits, bearing the motto : "Waremme roulons relax" (Waremme, let's drive relax)

6. Poster.
   A poster "Waremme capitale de la propreté" (Waremme, capital of cleanliness) has been distributed in order to raise the population's environmental awareness. These posters can be seen all over the town.

7. Benches.
   Public benches have been put up in several area's for the benefit of the aged and walking amateurs.

8. Participation in a theme day "Waremme, Ville propre" (Waremme, clean town) on 17 October 1987.

9. Holiday activities.
   a) Sports holiday including a day of kayaking.
   b) Instructive visits to historical buildings and to a nuclear reactor.

6. Decisions about to be implemented

1. Jogging track and car park.
   The Child Council has agreed to the construction of a large car park, bordered with trees, near the railway station. The work will be starting soon. Encompassing this car park and the Pond, a jogging track will enable all to keep fit.

2. Embellishment of the town.
   Some main roads will very soon be brightened up by flowers in flower-beds and other plantings. The pavements will be made accessible to prams and wheelchairs.

3. The footpath.
   A footpath has been laid out along the river Geer for the benefit of the amateurs of walking and fresh air.

7. Projects

1. Setting up a corner for relaxation in one of the most bustling squares

of the town.

2. Improving the tunnel under the railway station.

3. Collecting toys, and repairing them, if necessary, for distribution among the underprivileged children of Waremme.

8. A trip to Schiltigheim

Following a suggestion of Waremme's mayor to the mayor of Schiltigheim, the young councillors of Waremme have paid a visit to their "opposite numbers" in France, in order to exchange ideas on the organization of either group, their realizations and projects.

Both councils attended home-made audiovisual presentations of their respective activities.

In the course of their trip, the child councillors of Waremme also visited the European Parliament in Strasburg.

CHILD PEOPLE UNITED

The Youth Autonomous Front

We claim the right to self-determination for all child-people.
Accordingly, the Belgian government has to make the masses of empty houses and buildings in this country immediately available,
and if necessary by decree, for those who want to break out of their family prison, their home prison, their boarding prison, their school prison, their prison prison, or a prison by any other name.
Everyone, and in particular the children must be able to use those empty houses and buildings without restraint, in order to live there in accordance with their wishes and with whom they prefer.

We claim the right to means of living, to support ourselves
to travel, to learn, to work and to play.
In short we demand a basic income.

We claim the right to support, by supporters selected by the children, and from the moment the child asks for this.
Thus, no steering, no cavilling, no coercion, no suppression, no deprivation of liberty, no mistreatment or any other 'educative' method.

We claim the right to sexuality, commencing with year zero.
How and with whom the child wants to.
For children are not a-sexual too-de-loo-da-da lap-dogs.
Nor sex objects.

Finally, we demand that children and youths are involved in the preperation, execution and decision-making of all scientific conferences where subjects that matter to them are discussed.

We never want to become adults.
For the future belongs to the YOUTH.
That's the way it is, and THAT'S ALL.

Promoting Network Development

INTRODUCTION

As to the striving for a better position for the child in our society, a lot of people appear to be active at various levels and in divergent fields. Although their goals may be more or less the same, many of these people turn out to be relatively isolated in their striving for social changes. In view of breaking through this isolation, the children's rights movement sets great store by the development of networks. In this context, not only local initiatives should be considered. Abroad as well, networks are being developed.

Eric Vandenhoeck (Belgium) gives an example of a local network. "Uit de Marge", a coordination centre for projects with socially and culturally underprivileged young people in Flanders, is the result of various initiatives where people saw that their motives and methods bore a strong resemblance.

Michael Piraino (USA) tries to show where the opportunities lie to combine the forces of committed and thoughtful people who try to help exploited or underprivileged children. On the one hand, there is a group which is preoccupied with large-scale action. On the other, there is a group which is mainly concerned with practical individual attention. At present, both groups are working separately, although they have a common basis and efforts hence could be combined.

Streetwise International is a young non-governmental organization. Their main objective is to make connections. Virginia Morrow (U.K.) points to the varied needs in this field and describes the methods which have been developed by Streetwise International in order to meet these needs.

Finally, there is Sanford Fox (USA) who embarks on the importance of preparing a Convention for the Rights of the Child within the United Nations. Furthermore, he focuses his attention on the main problems and on the possible significance the convention can have for the promotion of the rights of children.

OMBUDSWORK FOR CHILDREN AT THE NPO "UIT DE MARGE"

Eric Vandenhoeck

1. Introduction

1.1. What is "UIT DE MARGE" ?

The youth-work projects which focus in particular on socially underprivileged groups, joined in a platform of which the primary aim was to defend their common interests versus the government. This cooperation has developed into an association with its own coordinating centre : the actual association "Project Kansarme jeugd - Vlaanderen" (a project for deprived youths in Flanders) between 1984 and 1987, and the non-profit organization (NPO) "UIT DE MARGE" (=breaking out of the margin) since April 1987.

In a first stage a clear picture of the target public was tried to draw up, a mode of operation was set up, the objectives and the methods were determined, and the personnel and the means were looked for. The ensuing confrontations revealed that

a. arguments and motives for the elaboration of such projects were formulated, and that
b. it concerned a particular form of youth work as far as the methodical principles were concerned.

The practice, which is linked to a clearly autonomous vision in this case, is referred to as "youth welfare work".

1.2. Defining the target group

The project does not focus on the children in general, but on children and young people who, in view of specific social, cultural, economic, material, ethnic, physical or psychological characteristics and because of the methods, objectives and contents of social institutions, suffer systematic and cumulative disadvantages on the level of development potentials.

If children, as a group, were the most oppressed of all minorities, then our target group could be called the most oppressed within the most oppressed minority. However, we offer no opinion on whether children can be isolated as a social entity and whether they can then be classified on a scale showing the degree of
oppression. On the other hand, it seems fair to say that our target group's parents are themselves more oppressed than notary public's or doctors' children, even though children belonging to the latter environment also have

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problems of their own. Their situation illustrates that there are several kinds of oppression and that having certain rights does not always imply a fair society. We, from our part, focus on the social mechanisms causing oppression to be transferred from generation to generation in certain social environments. In those environments social deprivation is a tradition to which people have adjusted psychologically and culturally. The differences between these youths and middle-class youths cannot be put into figures. Qualitatively spoken, they are two socially distinct groups.

2. What is children's ombudswork ?

2.1. Introduction

Since both in practice and in theory the term "ombudswork" has many different meanings, we thought it necessary to indicate what we mean by the term ourselves.

We intend to keep its meaning as broad as possible, in other words, not to restrict it to a governmental service's activity or to a autonomous and independent service, such as the children's helpline for example. Nor do we wish to regard ombudswork as living a life totally of its own, whether or not carried out by a separate service or worker within or outside an organisation. This is a possibility, but not a necessity.

The essence lies within the function created as a response to one of a child's specific needs, which is the need to complain. We think that the raison d'être of ombudswork resides in the complaint, and we consider this to be an important starting point.

The question is what function is to be created as a response to that need. Complaints can develop in many different directions : they can even be suppressed. But the latter can hardly be the aim of ombudswork. It remains to be seen, however, whether all ombudswork takes such suppression mechanisms into account.

The activity of the ombudswork centres on two main groups : first on children and youths, second on departments which can influence the cause of the complaints. The activity in one field presumes an activity in the other and vice versa.

The ombudswork's function is then to create, stimulate, diversify, deepen and broaden a channel which directs the complaints to the authorities concerned in an appropriate way and with the content aimed at.

2.2. Ombudsfunctions in the youth welfare work

In order to visualize the organizational, methodical and material aspects of such a network, we consider it necessary to present an exact picture of the position of this ombudswork within the youth welfare work as a whole as seen by "Uit de marge". The ombudswork creates a specific function which fits in with an overall approach. I think it is useful to illustrate this approach first.

2.3. The overall approach

The view developed at "Uit de marge" leads to a specific methodical choice, a view of practice denoted by the term "overall approach". This term covers three methodical principles : an integral approach to the child, an inclusive approach to society and an integrated elaboration.

An integral approach to the child means that the projects do not merely deal with the children and youth as young people wanting to unwind collectively through a particular hobby or sport. Guidance and projects aim at concentrating on all aspects of the children's lives through activities and personal contact, such as their situation within the neighbourhood, their way of living, their jobs, assistance, the police, the law, going out, but also on their cultural or personal problems. Thematic projects can deal with numerous individual or social problems or difficulties. Moreover, the youth worker can try to remedy the problems through appropriate activities.

An inclusive approach to society means that the youth work responds to those institutions which the youngsters have problems with. It also implies that the different institutions are not dealt with as separate organisations, but that their mutual relations within society as a whole are looked at. This, in turn, creates an active relationship between the youth work projects and the policy-makers on all levels and for various responsibilities. It is clear that the media are called upon in order to exert influence on government authorities or institutions. All means of social action can probably be used, although there are limits.

An integrated elaboration means that during the composition and the choice of the programmes and activities the various functions of the youth welfare work appear beside, above, under and through each other within the youth work. For various combinations of meeting, recreation, information, assistance, advice, education, prevention, defending interests, exploration, action and so on will be encountered in the offer of the youth worker. Depending on the activity, these various functions will cohabit in various proportions. Nevertheless, the development of the functions concerned will always be consistent. Although meeting and recreation take a central position, the objective mainly resides in education and action. Consequently, we will always be able to notice a movement from the former to the latter functions.

The fact of the objective being formation and action is linked to the motivation of the youth welfare work dealing with socially underprivileged groups. Its aim is to make a contribution in breaking out of the vicious circle of deprivation. In this sense the project focuses both on the children and on the institutions, in such a way that the project concerning one pole corresponds to the other. So each project is in a particular stage of a process determined by the development of a target group on the one hand and by the changes occuring within the structures and the cultures of society on the other.

This is, in a nutshell, what is meant by the overall approach of youth welfare work dealing with socially underprivileged groups, which has come together in "Uit de marge". It is precisely within this view and the practice it refers to that we can situate the ombuds function. Since we are dealing with an integrated elaboration it is also obvious to speak of ombudslike activities rather than of ombuds-work, for the ombuds function will rarely be at work on its own.

Let it be clear that within youth work, numerous signals can be noticed which refer to children's difficulties, problems, questions, unfair situations, discriminations, protests, suggestions, demands and complaints. These signals can be communicated and made proper for communication in a variety of ways.

The youth worker can exert influence on the institutions concerned in different ways : he or she can bring the children or the youths directly in touch with the persons or the organisations in question ; he himself or she herself can get into contact with the institution in the role of the youngsters' spokesman ; finally, he or she can transfer the complaints to a coordinating committee where collegues and, possibly, experts can discuss and set up an action, whether or not together with the youth workers and/or youths.

2.4. A broader scope for ombudswork

The objective will differ according to the scope in which the ombudswork is carried out. In the case of youth welfare work dealing with socially underprivileged groups, the central objective is to contribute to the elimination of the processes of social deprivation. It is clear that in this case we take up a well-defined position within social relations, notably on the side and at the service of the process of emancipation and integration of the underprivileged groups.

In order to do ombudswork with that objective in mind, it is necessary to carry it out in a broader scope, from various angles, with regard to various institutions. This requires a network. Our organization, the NPO "Uit de marge" is well on its way towards elaborating such a network, and towards promoting that kind of network for specific groups.

3. Coordinating ombudslike youth welfare work

The youth-welfare work dealing with socially underprivileged groups, which has in fact fully developed only recently, has realized a lot in the field of ombuds work already. The coopera- tion between the various basic projects has been essential to that success. This collaboration has been successful because of the unanimity and the continuity maintained by the coordinating body, which was set up by the youth work projects and which, in 1987, changed its name from "Projekt Kansarme Jeugd Vlaanderen" to the NPO "Uit de marge". The change of the association's name and statutes resulted from a confirmation of its successful action during the annual general assembly.

The coordination owes that support to the consistent application of a series of organisational principles and principles concerning contents. The principles concerning contents are explained in a programmatic section of the association. The other principles make out the organizational aspect of the project. We consider it important to point out that both aspects are closely linked.

3.1. The programmatic principles of "Uit de marge"

A. To set up a platform which brings the youth welfare projects dealing with socially underprivileged groups more closely together

B. To elaborate a common view on youth-welfare work as a contribution to eliminating social deprivation

C. To continue filling in and illustrating the concrete practice of the overall approach

D. To promote and organize comprehensive actions originating with youth welfare work and oriented to institutions involved in the process of deprivation

E. To continue verifying any new developments and propositions within the view of the youth-welfare work against the background of practice

F. To promote youth-welfare work dealing with socially underprivileged groups

G. To seek scientific, financial, political and organizational support for those projects

Let me point out here that these explained principles do not exclusively fall under one denominator, and that they need to be appreciated as a whole. They make out the programmatic aspect of the coordination. When this coordination started in 1984, the following program items were stressed :

1. The target group was the basis :

- to organize relief for 12 to 15-year-olds ;
- to recognize and support girl-oriented projects

2. The objective was to eliminate the deprivation :

- towards an increase in prevention through youth organizations ;
- to increase the political mandatories' awareness of social deprivation

3. The practice of the overall approach :

- specific linguistic education on behalf of migrants' children

4. Contributions to the social actions :

- towards optimizing the integration of youth work in the social revaluation of cities (social housing an socio-cultural infrastructure bill) ;
- to offer more possibilities to children, youngsters and youth work to participate in the youth (welfare) policy

5. Assessing the innovation :

- towards a renewed and innovative cooperation between youth work on the one hand, and schools, social workers, the police and the judiciary on the other

6. Promotion :

- a cooperation between youth work dealing with socially underprivileged groups and the media

7. Supporting the youth welfare work :

- setting up scientific research on behalf of youth work dealing with socially underprivileged groups ;
- an interest in social deprivation in the curriculum of socio-pedagogic training ;
- towards a well-considered professionalization and increased opportunities to professionalization ;
- to elaborate a regulated youth centre policy on the level of cities and communes ;
- indirect subsidizing by giving means and material at the projects' disposal
- a locally and nationally coordinated youth welfare policy (decentralization, complementary policy) ;
- to familiarize with new initiatives, such as projects for girl-oriented projects ;
- new criteria of legitimization and subsidizing

3.2. The organizational principles of the coordination

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1. **The coordination is defined, led and controlled on all levels by the various projects.**
   A number of guarantees has therefore been set up within the organization. The various fields of operation of the coordinating body are managed by two direc-tors : a member of the coordination team on the one hand, and a member of the local projects who is also a member of the association's board of directors.

2. **The decentralizing function of the coordinating team.**
   The practice of coordination has shown that a system of central working groups dealing with particular working problems are inefficient. When local projects set up functional relations, these relations should be confined to regional cooperation dealing with a specific theme : on a regional level, the services also differ according to their development and their working method. As far as education is concerned for example, we see that functional relations are more developed in Limburg than in the other regions ; or that on the judiciary level Mechelen offers other possibilities than in Antwerp for example where, once again, there is another kind of relationship between, say, the social workers and the police. The coordination's support on the regional level is also beneficial to the local exchange and cooperation between the various basic projects. As a matter of fact, the bulk of the coordination is carried out by the local projects, as it brings a solution to the local needs. It would be useless to impose a particular coordination from the top. That is the reason why the coordinators are themselves members of a local project as well.
   "Uit de marge" requires the team members to remain involved in the local project by being active members of the project themselves. This is an essential element as the target group is or can be so different with regard to the team members' domestic environment. In these circumstances, the specific working problems can be personally experienced.

3. **Continual inquiry into the basic projects.**
   In order to remain aware of the existing problems which both the children and the youngsters on the one hand, and the projects on the other are facing, the organization has opted for paying very regular visits to the projects and for making an inventory of the proposed solutions in order to centralize them. When new initiatives are taken, the organization also goes to the projects in order to take interviews for the magazine. Finally, visits are paid to assist particular projects facing specific problems.

4. **A magazine for the transfer of information.**
   This concerns not only the transfer of information towards the organization, but also from within to outside the organization as well as from one project to another. It is the most essential element in the effort to safeguard and develop the dynamics of the coordination. Furthermore, it offers the local project a direct insight into the coordination's activities.

5. **International contacts.**
Our organization proves to be very curious. Last year, we met with professionals and were given the opportunity to examine practical examples of youth work in various countries. The experiences and new ideas resulting from these contacts were communicated through our magazine. It is of capital importance not to be isolated internationally, all the more so when it comes to dealing with immigrants. Therefore, such initiatives as the European network of migrants' youths can count on our full support. It is a pity to realize we are the only ones in Belgium to follow this kind of policy.

3.3. The development of a unanimous view is the cement of every coordination project

The previous statements illustrate that the youth workers in "Uit de marge" had come to terms with each other because of a converging commitment with respect to one particular situation of social deprivation. In view of promoting their cooperation, they have set up a coordinating body with a particular programme and working method. All this is connected and stimulated by the common view which is currently being elaborated by the youth workers. The basis of this view is the analysis of the social deprivation. This analysis deals with the problem from four different angles, the four lines of approach which are considered to be necessary in order to tackle a social problem as a whole ; they are the psychological, the interactive, the sociological and the economic approaches.

Needless to say that social deprivation is to be situated in the various fields and that any short and long-term objectives need to be formulated in every domain. This, too, constitutes an integral part of the view which is being developed. The question which then arises is to know which of the four approaches prevails and whether there might be a theory regulating the relation between those various approaches. As I see it, the answer is that practice will determine what needs to be tackled most urgently at a particular moment. That is one of the most
essential insights underlying the concept of the overall approach.

The overall approach, which has been illustrated earlier on, is more or less the axis around which the outlook of the youth-welfare work dealing with socially underprivileged groups further develops. The methodical principles are aimed at introducing changes in the relationship between the youngsters on the one hand, and the social institutions or structures on the other. By making it concrete, new insights continually come to the surface which further develop the concerned view. This creates a community with a common action and reflexion, or, in other words, with a common and developing praxis. Through this system, the view is continually enriched with new knowledge from practice and scientific research.

The motivation is what brings the youth workers together and what lets them develop their project with a common view in mind. It is yet another part of the view ; it is even the view's main source of power. In reality, the worker's sole objective is to breach the vicious circle of social deprivation and to arrive at the emancipation and the integration of the socially underprivileged groups by means of a particular kind of youth-welfare work.

The resulting entity contains numerous concrete conclusions, opinions, regulations and so on, which are not likely to cohabit in one consistent whole. We can find a beautiful example of and a guide for such a working theory in the book "Jongeren op straat" (Youths in the Street), which is the reflection of the same project, but in a Dutch context.

If we were able to visualise the components of the view, it would look like this :

THE MOTIVATION

THE ANALYSIS
OF THE SOCIAL
DEPRIVATION
(psych, inter, socio,
econ)

THE ACTUAL SHORT AND
LONG-TERM OBJECTIVES

PRACTICE
(overall appoach)

The motive of eliminating the social deprivation is not typical of youth work, not even of welfare work. It is a socio-philosophical motive that implies the rejection of numerous structural mechanisms in today's society. It wants to intervene in the political decision-making, in favour of the underprivileged groups, both youths and adults.

4. Conclusions from the perspective of "Uit de marge"

Ombudswork can be defined as the youngsters' feedback system vis-à-vis the social structures which they are confronted with. Consequently, ombudswork is mainly characterized by the organisation of social institutions which facilitate the communication between individuals wanting to state complaints, problems, proposals or demands on the one hand, and institutions able to react positively to these elements on the other hand. The latter can be policy-making institutions, but also social groups or organisations, as well as public opinion.

In discussing the application of the ombuds function in the overall approach of youth welfare work dealing with socially underprivileged groups, we need to start with the concrete situation which practice is confronted with, being the situation of deprivation affecting the four fields discussed earlier on. The analysis of that situation will force us to make specific practical choices.

A. Psychological

- A dominant external orientation
- Direct and concrete thinking habits
- A strong group relation
- Restricted language (Bernstein)
- Other ways and forms of expression (more physical ones)
- A lower tolerance with regard to frustration
- A limited assistance in a primary environment for school performances

B. Interactive

- The school's influence in developing fragility (Walgrave)
- A marginalization caused by a negative self-image from peer group
- A home culture with regard to social institutions such as education, youth work, assistance, socio-cultural facilities and the like
- The development of typical marginal youth group cultures with various aspects and directions (imitation, renovation, escapism, agression, traditionalism, neoculturization and opposition)
- Considerable differences in culture (isolation of migrants' girls)
- The influence of the media in opposing emancipation and integration
- The scapegoat theory

C. Sociological

- A discrimination of certain institutions on the basis of certain social characteristics : housing and urban development, education, employment, the police and the law, the provision of service
- Socialization within the margin

D. Economic

- Material limitations in all fields
- Confinement to the secondary labour market (as a reserve army of labour force)
- "Delinquency for subsistance"
- Hardly any economic significance and consequent absence of all trade-union power
- An unfavourable position in the struggle for the scarce jobs (causing discord among the workers)

This analysis enables us to draw a number of conclusions concerning the possibilities and limitations of the practice of ombudswork. Starting from the picture of the social structures on one side and of the chaotic mass of children and youths moving in various directions in a spontaneous and free manner on the other side,

the question about the position of ombudswork can be answered in two ways : either from the side of the structures, let us call that the top, or from the side of the youths, whom we will call the bottom or the basis.

In what we discussed earlier on, we arrived at the thesis that ombudswork refers to the "members'" feedback system towards the structures of a society. The thesis of youth-welfare work is that such a system, although belonging to the social institutions, should be in the hands of the young people themselves. An additional thesis in this context deals with the degree of involvement in social structures.

Children having a positive relationship with their school are likely to establish contacts with other social services more easily. A negative relationship with society, on the other hand, is not a good condition to make active use of social services, not to say that it is an obstacle.

Feedback is authentic when it does not impose any limitatons on the ways of expressing oneself. And these ways have a specific meaning for the user, which does or doesn't make it possible for the person involved to make or not to make use of it in certain types of communication. Furthermore, the children and youths need to possess the skill to make use of it. All this gives the impression that the most essential form of child ombudswork lies in examining the graffiti in the school toilets.

5. Some critical remarks

Thesis #1

Child ombudswork should fit in with an overall approach to be completely functional

The term "child ombudswork" has probably evolved in the course of the last ten years. Its origin goes back to the Swedish ombudsman : a civil servant with the task of collecting complaints about the operation and effects of the welfare state. The ombudsman's role of government official is typical of the welfare state. Today, the ombudsworker's position and function have become either much broader or, on the contrary, much more specific. I think it is important, though, to incorporate the historical dimension of the ombuds function in my text.

In the course of its existence, the function has clearly been situated in the system of welfare work, and in that of the autorities in particular. The objective and the content of the concept do not only imply that the function tries to trace the population's complaints, but also that it promises to find

solutions by intervening, proposing changes in policy etc. as well. The function is given a legal, administrative and socio- agogic competence, so that the process of solving social problems becomes a matter dealt with by a centralized service.
The youth welfare project is of the opinion that a more direct contact has to be realised between those who formulate the complaints on the one hand and the institutions concerned or competent in the problem one the other hand. If not, there would be a real danger that social control would become too strong in some problem groups ; as a matter of fact, this social control is a trouble spot in itself already. Therefore, we are of the opinion that ombudswork should form an integrated part of youth-welfare work, particularly one that aims at realising an overall approach. In this respect ombudswork can be situated within youth-welfare work as a whole.

Thesis #2

The current processes of social deprivation cannot be stopped by adopting a legal system of comprehensive children's rights alone.

When we take a closer look at the law against racism and xenophobia for example, the value of legal protection seems to be rather limited. The law in itself is not bad, but it turns out that 317 out of the 334 complaints have been dismissed, that the only sentence, pronounced in Mechelen, was repealed, and that former minister Simonet abused of the law to prosecute a young Moroccan who had publicly branded him a racist. In other words, the applicability of the law can be questioned. Justice of the Youth Vandenbussche claims that the law can only be effective when public opinion has further evolved. In the meantime, the majority of social institutions are still pervaded with racism, which is surely not beneficial to the evolution of public opinion. Consequently, it is not just a matter of laws against racism (cf. the criticism against the organisation "SOS- racisme" in France) : the immigrants demand a policy which really takes initiatives in all areas in favour of the development, emancipation and integration of the second generation.

In our opinion it is obvious that the position of certain groups within the population in the social relations is vulnerable. It is therefore in their interest to obtain rights by which they can improve their social position. But rights are not a goal in themselves. We think that the demands for rights are just one aspect of a much broader struggle for people's interests.

This is, however, not always the case. It seems to us that the demands for rights are sometimes the expression or the reflection of a perception of society which is considered to be ideal, in other words, that those demands have a strong ideological inspiration.
Against an idealitic motive for child ombudswork, we place a materialistic one, oriented on the concrete perception of problems by the people involved.

Welfare work dealing with socially underprivileged groups adopts the theory of social dialectic and in this respect it puts itself at the side of the underprivileged groups.
We regards politics, the law and the elaboration of a theory as the expression of a particular ideology. We want to prove that making a stand for children's rights is not the central element in the defence of children's interests.

Thesis #3

A movement which makes a stand for the improvement of the children's legal position can only be successful when it is willing to improve their general social position as well.

It is indeed in the interest of a society's development to demand a number of fundamental children's rights, such as the right to housing, nourishing food, positive social contact, care and affection, education, recreation, room for criticism and creativity and so on. Children who have to do without the elements to which they are entitled through their rights, lack a number of essential conditions for to their development. This is not due to the fact that they are not able to bear those rights, that they cannot acquire or retain them ; the problem lies with the social position preventing certain groups from benefiting from what they are entitled to by certain rights.

Thesis #4

Anyone wanting to improve the social position of children will first have to apply himself to eliminating the processes of deprivation with regard to the most deprived groups.

It is indeed the groups for whom the situation is most distressing of all, who need to be specially favoured for the sake of equity. That does not imply that the other groups do not have to be emancipated : perpetuating the inequalities, or even giving more possibilities to one particular group only aggravates the situation because this encourages discriminations in the children's world as well as the stigmatizing perception of other children. This would only result in an even greater effect of deprivation.

Thesis #5

Anyone dedicated to the most deprived groups should abandon his individualistic perception of man.

We can find this individualistic view in theories dealing with prevention for example. We can see this individualism in the formulation of problems as well as of strategies. Examples of this orientation are : the emphasis on self-development and assertivity, and the environment's tolerance versus problem cases. An individualistic approach has a stigmatizing effect and solves nothing because it casts doubt on the group as well and causes it to turn hostile.

As a matter of fact, not enough emphasis is put upon the social character of children's and youngster's lives in situations of deprivation. It is essential to think in terms of real situations in the target group and its environment. We therefore advocate a more materialistic analysis.

Thesis #6

The claim for "more rights to self-development" is an idealistic and mystifying one. It perpetuates social deprivation.

We do not want to talk about the attribution of meaning, but about complaints. Complaints refer to the children's relationship to their environment which is characterized by social problems.
When children send out signals about that relationship, these signals tell something about children themselves as well as about their environment. The changes which are tried to be implemented mainly concern things surrounding them. If we are concerned about their fate, we have to encourage the changes to their environment in the first place.
Therefore we consider it insufficient and a waste of energy to deal with the demands formulated by the children's rights without taking the social demands into account. It might even counter these social demands.

6. Demands to the authorities

The authorities should spend more money and bring in more staff for the youth-welfare work dealing with socially underprivileged groups. There is a substantial lack of staff in both the basic projects and the coordinating body. Only 8% have a contract. The coordination project "Uit de marge" is only subsidised for 29 hours a week. In most cases housing is very poor or even inexistent, so that some youth projects do not have any housing at all. The means are insufficient as well : a survey has revealed that the various projects were compelled to look for 12 million BF themselves, which is a frightening situation for a sector which was rather small in 1986.

The authorities should also encourage cooperation in the fields of education, employment, assistance and legislation, which boils down to granting more means in those fields as well (infra-structure, personnel, financial assistance, regulations for government officials and civil servants).

Local initiatives, such as the "Preventie - Overleg - Jeugdzorg" (Prevention, consultation and youth work) in Antwerp have had to cancel or suspend interesting projects because they lack real government aid. In some cases, initiators even have to resort to private sponsoring, which could seduce third parties into gaining control over the projects, and which could pull down government subsidizing even more.

Finally, we would like to point out that all who wish to support this youth-welfare work, can turn to the Secretariat, Generaal Eisenhowerlaan 47 in 2200 Borgerhout. (Tel. 02/235.18.81)

LINKING CHILDREN'S ADVOCATES

Michael S. Piraino

Throughout the world, committed and thoughtful people work to help disadvantaged and exploited children. Researchers, children's rights advocates, grassroots children's workers -- they have unique approaches to the challenges of poverty, malnutrition, poor health, mistreatment, and homelessness. At the same time, equally devoted professionals and parents give adopted children a commitment of compassion and love. Too often, however, the two worlds-one preoccupied with large scale practical action, and the other with equally practical individual attention -- do not meet.

Too little has been done internationally to create an interdisciplinary strategy on children's issues. A fresh initiative is needed to promote new international coalitions on their behalf. We need to listen not only to our children. We need to listen more attentively to each other as well.

An interdisciplinary strategy on children's issues free from the constraints of conventional professional techniques can help focus attention on critical questions. The danger of a purely professional, technical orientation is its implication that children exist to be studied, managed and manipulated. Recognition of this compels us to deal with the core and not merely proliferate our own specializations. The integrity of other perspectives constrains us to challenge the adequacy of the question we ask.

A foundation exists for this new initiative. Forces now isolated could coalesce into an effective international coalition for children. The result would be a more constructive pragmatic agenda for a more equitable world for children. A coalition is possible between adoptive and foster parents and professionals on the one hand, and those who work for and adovocate children's causes, especially in the Third World.

These are a few of the conclusions from an interdisciplinary study of child welfare methods and issues in England, the United States, and some Asian countries. The study included interviews with 231 adopters of foreign-born, special needs or different race children. Additional information came from 385 organizations in the United States, England, Europe, and Asia, including :

159	foster care and adoptions agencies
36	adoption advocacy and support agencies
49	children's rights groups
60	development agencies
21	research centers
33	child care centers in Asia
27	human rights groups

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Often isolated, these groups could form the nucleus for this new initiative.

I. Lost Opportunities

Too often, those who should be the most ardent partners in working with children go about their work wearing blinders. The constraints of professional practice and of personal ideology blind them to the needs of the children themselves. Despite some improvements, social work decision-making for children in care suffers from this myopia. As committed foster parents know, it is rare for foster children to have an effective decision-making role. In this survey, children in care had an authentic voice in less than ten per cent of the cases.

Children, in other words, are too easily overlooked. Both governments and non-governmental organizations are guilty. Sixty development oraganizations surveyed were asked about their programs for disadvantaged children or children at risk. Although there are photographs of children in many of their publications, eighty five per cent of the organizations had no program specifically aimed at children. Most asserted, and it is partly true, that children benefit generally from development projects. That trickle down effect, however, is insufficient. The needs of children, far from becoming distinctive, receive scant attention when we do not acknowledge young people as a discrete group. Children must have their own priority in the adult world, and a preeminent one.

Children's needs must also be segregated from adult desires and obsessions. Evidence accumulated over many years shows how damaging institutional care can be to children. In the United States, this has enlarged the child welfare community's emphasis on support and preventive services, a less costly approach both in absolute and in human terms. This research, however, does not affect our charitable efforts for children in the Third World.

Often, these philanthropic efforts seem more obsessed with making adults feel good, rather than helping children. The international development community, for instance, must attend more closely to children's needs even when it means political or ideological sacrifice. One development organization has an extensive program of community development based on a strongly held self-help philosophy.
In the midst of civil disorder and ethnic conflict, it has a remarkable record of achievement.

At least for its adult constituency. But what of the children ? Because of its predominant philosophy, the organization will not place parentless children either in foster care or for adoption, whether domestic or international. The result is that all parentless or abandoned children cared for in its community programs live in large homes, a child care method most professionals and advocates will not tolerate now.

Some international aid agencies also contribute to the continuation of inappropriate child care methods in the third world. Of the international organizations surveyed which provide development aid, thirty four per cent funded child care methods which are either poor substitutes for a permanent family or an inefficient use of resources, including :

- Sponsorship of individual children living in large orphanages
- Work training schemes for relatively young children
- Parking special-needs children in institutions not equipped to meet their needs
- Temporary care for children whose parents are in desperate circumstances, where there is no supervision and no plan for reunification or other placement
- Homes where unwed mothers receive care in return for releasing their children for adoption.

It is not only that these give the child little chance. The use of funds for short term, stop-gap measures means prevention and planning receive little attention. Child care workers in three Asian countries supplied estimates of how they spend their time. They spent anywhere from fifteen to thirty five per cent of their time on paperwork required by their funding sources under their sponsorship schemes. None were able to devote time to preventive work.
It need not be so. Some development organizations recognize children as a discreet client group, providing aid which does more than reinforce outmoded institutions. For example, one decided to help children in institutions in India not by funnelling money to those institutions, but by organizing workshops, developing strategies to rehabilitate families, and educating the children in non-traditional ways.
Another group of children are overlooked because they live on the margins : street children. No one has counted them. Although we believe that few street children are parentless, we have not carefully studied the dynamics of their families. They do not attend school or receive much medical care, so they do not appear in many of the usual statistical reports. Street children are, in other words, outside our official vision. Research on their needs is often anecdotal. Of thirthy two reports on street children issued in the last three years, only seven made some hard headed effort to define the worldwide dimensions and causes of the problem. To formulate effective practice guidelines, we need to increase the knowledge base to encourage a more concerted international effort to eliminate the problem.

Whithout this broader knowledge base, advocacy and assistance efforts too often focus on individuals without addressing underlying causes. The resources and goodwill of funding sources may be wasted. Current international philanthropy for children's causes suffers because it so often reponds only on a case-by-case basis.

Part of this survey looked at international efforts to help these street children and children who are homeless. In international meetings addressing these issues, one voice is surprisingly absent : that of people who have taken homeless children into their homes as foster or adoptive parents. At the same time, in national meetings on adoption and foster care, few children's rights advocates participate.

Why ? One reason is the distinct -- and largely unnecessary -- antagonism between these parents and some child welfare advocates. Professional and children's rights rhetoric, for example, questions the motives of childless couples wanting children. The strident nature of the rhetoric forecloses the possibility of cooperative action.

Another reason, however, is that the two groups live in different worlds. During an eighteen month exploration of these worlds, the major surprise has been how mutually exclusive they are. The professionals focus on children in the Third World, and do a good job of documenting cases and describing cures to each other. At the same time, adoptive parents form adoption groups. The two communities work in separate segments of the same sphere. Although they revolve around a common core -- helping children -- neither appreciates how similar their agendas are. The core consensus about the best interests of children is an unexploited link between the two.

II. Common Ideologies

This survey revealed much folklore about adoption in professional advocacy and child care circles. Often, it is misleading and inconsistent with the research. Professional advocates frequently announce that adoption is not a solution to the problem of homeless children. Such poorly focussed rhetoric is a barrier to cooperation. Although true in a global sense, the assertions overlook the positive contributions of adoption. Adoption works. It is a solution for some.

The advocates are, however, correct in suggesting a different frame of reference : that we look beyond the needs of individual children and engage in class advocacy, not just case advocacy. The range of children's issues requires a focus on national and international standards and legislation. Responsible international adoption agencies should therefore have an in-country commitment. Governments should expect them to prove this. Some Asian nations already do, weeding out those agencies not aimed at helping children.

Many developing countries mistrust private North American adoption agencies. Sometimes with good reason; many agencies have charitable motives, but others aim for profit. These countries, however, may assume that public agencies are more child-centered and have more expertise than private agencies. That is a questionable assumption. In this survey, private agencies were much more likely to take effective and decisive action to help individual children. Staff in these private agencies were also more involved with advocacy. Although some private agencies are not professionally staffed, that was not typical of the agencies surveyed.

By contrast, an ideology of complacency often dominated the public agencies. Much professional emphasis in public agencies is on the biological family, an emphasis which can discourage permanent solutions for children. In such agencies, children remain in foster care longer while social workers wait for rehabilitation. They apply legal rules mechanistically, defining the needs of children by reference to the rights of adults, so that the rights of parents become a barrier to placement. Parental rights arguments are not so much erroneous as they are extraneous. What we need is a clearer definition of parental duties and a catalogue of what a child's best interests are.

Individual commitment to serving children's interests and a willingness to cooperate characterize the more assertive and effective foster care decisions makers. They particularly characterize those in private agencies, as well as children's advocates. Many of them have successfully achieved their local adoption and foster care legislative programs in the United States.

This distinction between an ideology of assertiveness and one of complacency does not apply only in North America. There are analogous situations in the Third World, for example, where schools of social work are dynamic, creative advocates, partly because of their independence from governments. Closer ties between such non-governmental organizations and those in receiving countries are therefore fitting. Twenty per cent of the North American agencies in this survey has close contact with overseas social work staff. The priorities in these agencies were first to aid natural families to prevent the need for adoption, second, in-country placement, and third, foreign adoption. These priorities are consistent with the principles approved in the United Nations Declaration on foster placement and adoption.

This staff cooperation also has led to better information sharing. Adoptive parents who used these agencies were better informed about the child's background and culture. International staff cooperation also seemed to lead to better child care services in both countries. Intercountry adoption of special-needs children, for example, often encourages domestic adoptions of normal infants. Cooperation works well when all parties recognize their common mission of serving the best interests of children.

The attitudes of adoptive parents suggest they could be the natural allies of these professionals and of other children's rights advocates. A significant number of them have a strong pro-child ideology. The survey results show their awareness of the demands and importance of good parenting. For example, attitudes toward work were explored by asking whether the adopters agreed with these statements about new adoptive parents :

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- One parent should not work : 27 % agree.
- One parent should not work full time : 62 % agree.

The reason most often given was the importance of giving children a high priority. Almost none of the adoptive parents felt they would allow work demands to take precedence over their children, nor did they consider child care a demeaning occupation.

The parents' decision about family size also reflected their pro-child orientation. Their choices of ideal family size were :

- More than five children : 30 %
- Three to five children : 18 %
- Fewer than three : 48 %

Most of those opting for smaller families explained that they would not be able to give enough attention to each child in a larger family. Those opting for larger families usually had adopted special-needs children, or were older parents whose other children were grown.

What were their motives ? They could be roughly divided into four categories :

- Political motives ("make a statement about the kind of world we live in") : 10 %
- Child saving ("help a homeless child") : 15 %
- Personal fulfillment ("wanted a child") : 45 %
- Both "2" and "3" : 30 %

For more than half, then, there were selfless motives involved in the decesion to adopt. When those motives were present, the couple were much more likely to have chosen smaller family sizes and to agree that one parent should not work.

This evidence does not justify the more critical children's rights rethoric. But do these motives, attitudes and parenting styles translate into an active interest in other cultures ? Adopters of "different" children -- those of a different race or foreign-born -- showed a strong interest in the child's cultural background. More than 85 % expressed this interest through such activities as

- familiarizing themselves with that culture by reading
- a desire to have their children read books with multi-cultural themes
- encouraging contact with children and families from different cultural backgrounds
- sending their children to Korean culture camps
- keeping life story books which include all known information about the natural parents

- a desire to take the child to visit his or her country or origin
- participating in groups of parents of transculturally adopted children.

That multi-cultural interest has not yet translated into involvement with the political issues of children in difficult circumstances. Few of the parents had such direct involvement, although some regularly donated to children's organizations working overseas. Most of the parents were aware of and concerned about adoption and foster care practices in the other country. The major barriers to further involvement were inadequate information about the needs and problems of children, and the absence of any mechanism for channelling their concern.

This could be a formidable force. Much of its attention, however, currently is on local adoption and foster care advocacy. Many of the placement agencies surveyed made this advocacy an important objective. There are few organizations which could channel this concern into a more international focus. Some American adoption agencies have taken steps in this direction by insisting that couples who adopt foreign-born children make commitments to the children and organizations in the other country. Many of these agencies and adoptive parents' groups actively pursue aid schemes for foreign child care agencies. Although worthwhile, the work is uncoordinated and insubstantial compared to the size of the challenges.

III. Common Causes

There are vital areas of agreement between adoptive parents and children's advocates. Instead of allowing these similar preoccupations to create antagonisms, as they so often have, they can be channelled into action for children on a variety of fronts. Below are some of these common causes supported by both the adoptive parents and the children's advocates in this survey.

Adoptive parents overwhelmingly displayed concern about four issues relating to children worldwide :

1. homeless, abandoned, and street children (most parents do not distinguish among the three categories)

2. refugee children and children in armed conflict

3. children nutrition and health

4. child abuse.

Few had any idea of the extent of these problems in the Third World, or any familiarity with organizations dealing with them. Asked, however, if they would support campaigns aimed at these problems, over ninety per cent strongly

agreed.
One such campaign could be the improvement of foster care methods. Both groups felt that children stay in foster care for too long. Most agreed that adoption can be one solution, especially for special-needs children. Adopters and children's advocates both supported these causes :

- Prevention of family breakup through more family support services.
- Better pay and adequate training for foster parents.
- Strict time limits on foster care.
- Encouraging family care and avoiding institutionalization.
- Support for modern child care methods worldwide.

Adoptive parents could also assist the children's rights movement in developing a compassionate, collaborative approaches. Adoptive parents felt they could join children's rights advocacy on these causes :

- Drafting international standards for child care and documents on children's rights.
- Lobbying to ensure that children are the first to receive protection and assistance.
- Joining with children's rights workers to ensure that all children receive adequate food, housing and recreation.

The ethics of adoption practices are a concern not just of children's rights activists. Most adoptive parents interviewed supported the objectives of the United Nations declaration on foster placement and adoption, including :

- Outlawing the selling of children and aggressively pursuing prosecutions.
- Better domestic and international laws and regulations on adoption, guided by the best interests standard.
- Greater interchange between professionals and adopters on these issues.

All the adoptive parents indicated some concern about the state of refugee and street children. Both adoptive parents and advocates wanted to see :

- Better research on the best way to care for unaccompanied refugee children.
- Better treatment and legal protection for detained children.

- Broad support for the work of the United Nations High Commissioner for Refugees.

- More public attention to the problem of street children.

To cooperate on these and other common issues demands a change of attitude to stimulate new child initiatives. Unfortunately, this stimulus to cooperative action has been missing. Although we may be child-centered in our personal lives, this often does not translate into large scale collective action. Our child-centeredness abides in our words, occassionally in our everyday actions, but rarely in collective advocacy.

Signs of change appear, however. In the United States, initiatives for children have become politically popular. The concerns of this pro-child movement range from child health and nutrition benefits, to pregnancy prevention, to subsidized adoption. The movement is not just concerned with domestic issues, however. Its concerns form a healthy agenda for cooperative international action. The major emphasis is on prevention, the importance of long term policies on children, and recognition of the child's rights to compassionate care, and access to adequate health, education and housing resources.

IV. A Strategy for Cooperation

The practical linking suggested here demands that we acknowledge anew the importance of children, and question our assumptions about how we help the poor, the disadvantaged and the mistreated. Small, individually focussed programs have their place, but it is precisely this limited intervention which discourages attempts to make the world a better place for children. Some measure of collective responsibility for meeting the needs of children is essential. Children should have a claim on resources not limited by family or even national circumstances. The new outlook would both identify the needs of children and work to reallocate resources toward those needs.

The focus of this initiative must be to place the needs of children on the agendas of those who can help reallocate resources to children. This includes the international development community, peace organizations, and leaders of philanthropy. Before extending their vision, however, we must expand our own.

As this study of adoptive parents shows, the changes in values are already there. It remains to keep the momentum and turn these values into a persistent mechanism for creating a more child-centered society. The time has come for an international effort to promote regular discourse among researchers, advocates, professionals and concerned adoptive parents from all parts of the world.

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"ONLY CONNECT" : MECHANICS AND ETHICS OF NETWORKING WITH DEVELOPMENT AGENCIES FOR CHILDREN

Virginia Morrow

Imagine sitting in an office in one of the major university cities of the world, surrounded by top level academics, and a wealth of resources of all kinds, and receiving an enquiry like this one, which I took from the top of the in-tray when I started writing this paper. I'll quote :

"We are planning to establish a small Ashram for the street boys. There will be a small agricultural farm, a dairy, a small workshop and a hostel. The rag pickers will be asked to stay at the Ashram and work there and also they can go for the collection of rags etc. Simultaneously we provide education, citizenship, cultural education and so many other related life based training etc. I hope if Streetwise guides us properly we can definitely shape some youngsters as good citizens of this community".

Despite all the resources at our disposal, Streetwise International has a problem knowing where to begin to answer an enquiry like this one.

We receive two types of queries about children; from rich countries and poor countries. Enquiries from western countries are likely to be from a major Sunday newspaper or a documentary filmmaker asking for information for an article, in other words - people with money to spend. Or we may be asked for help by a development agency : to quote a major European funding organisation "Money is not a problem - we want to get in touch with good projects". Enquiries from the developing world, on the other hand, tend to be like the one I've cited : asking how to get help, (especially financial help) and, most importantly, information. A typical request runs : "We would like to have all your materials on Street Children, programmes for them, educational materials, research findings, new ways of working for the welfare of such children".

So requests are for information - from one side we are asked to send everything we have on street children; while from the other side we may be asked for an anecdote about a child, details of a suitable project, or all we know about child prostitution in India. So our task is to connect : the connection of ideas on the one hand, and the connection of people on the other. There is no point in collecting information and case studies without "connecting" them up.

The problem : children in development

One of the reasons why connections are not made is inherent to the development process. There is frequently a paradox in the way in which children are dealt with in development policies - the ultimate aim of "development" is the future, i.e. children, yet children are rarely regarded as a special target group in overall development schemes.

In addition, children are generally conceptualised on a medico-psychological model and thus de-politicised. Their health is more of a concern than their social situation. For example, UNICEF's Child Survival Revolution claimed that in order to stop 20,000 small children dying every day, we should use GOBI-FF (growth charts, oral rehydration therapy (ORT), breast feeding, immunisation, with food supplements and family spacing). This is admirable, but it plays down the various social and cultural aspects of childhood in different parts of the world which affect both the health and emotional well-being of children. To take one example, concern with physical development of child workers is often emphasised at the expense of analysing precisely why children are working. Studies tend to concentrate on how bad child labour is, but there are few analyses of the socio-economic reasons for child labour and how child labour fits into the labour market. The cause is too often given as "poverty" and left at that, with no analysis of why some poor children work and others do not.

Programmes rarely target anything else than children in families, or children in communities - they seldom concern themselves with children in particularly difficult situations - war, prison, street children, children with AIDS, child prostitutes. When such children are dealt with they are all too frequently scandalised. Streetwise International stresses the need to combat secondary exploitation - the tedious queries we receive about child prostitutes to make salaicious Sunday breakfast-time reading, and the way in which filmmakers often glamorise child pornography and prostitution. Even in serious work children in difficult situations are frequently "ghetto-ized" - they are not seen in full cultural context of which they are a part, but simply treated as isolated case studies.

The Agencies

An even more serious problem in the business of making connections is the lack of communication, and even competition, between agencies in the field. Intergovernmental agencies are often unaware of the work that other agencies are undertaking; research and programmes are not integrated, often they overlap. For example, ILO has been producing reports on child workers for a long time; WHO Maternal & Child Health Unit has been working on the health of child workers over the same period; some UNICEF programmes deal with child workers, particularly where these are street children; FAO feeding programmes often encounter problems with child workers. But there has as yet been no cooperation between all of these UN agencies even to the extent of an integrated seminar, let alone any proposals for a coordinated programme.

Governmental agencies suffer from similar problems - Ministries of Education, Law, Health, Family, Social Services, are not integrated and do not frequently collaborate. There are often contradictions within the law or between the guidelines of different ministers. There is seldom a forum where information is exchanged, and information is often either duplicated or collected in such a way that it cannot be compared. To take a current example, in the UK on the question of child sexual abuse, the Cleveland case shows a lack of cooperation and a lack of channels of communication between health workers, social services, and the police. The priorities of the agencies involved often contradicted each other with dire results for the children and the parents involved.

International non-governmental organisations (NgOs), as we have already pointed out, seldom have a specifically children-centred approach. Projects often treat women and children as an indissoluble unit and assume that by working for the improvement of womens' interests, they will automatically improve the interests of children. But it is by no means the case that if, for example, one improves womens' employment opportunities, one will improve child welfare. If employment is provided for women, who will look after children at home ?

Where international NGOs do take an interest in children, policies are often aimed at a specific age group. The Child Survival Revolution was aimed at children up to 5, but what happens after the children concerned have reached the age of 5 ? Furthermore, there has been a general tendency to deal only with medico-psychological problems - and sometimes even these are dealt with inadequately, failing to take into consideration important social aspects. ORT is not going to help if there is a lack of clean water, or people are unaware of how dangerous dirty water is; likewise, it is no good to teach people to cut umbilical cords with scissors without mentioning that the scissors must be sterilized.

Streetwise International has found that national NGOs are often working without knowledge of each other within small geographical areas. They are frequently underfunded, have problems finding out how to get funds or how to acquire expertise and they may not be experienced in managerial skills. Certain NGOs are funded by international bodies, and these become the ones that are well-known, and their solutions become "the only solutions", so they may attract a disproportionate amount of resources and media attention. In some cases this has lead to the rise of "star performers", who then spend more time out of the country performing on the development circuit than working on the project itself. This may be very good in terms of raising public awareness, but can lead to smaller or less well-known projects becoming virtually ignored, and suffering a lack of confidence.

There is often a lack of professional knowledge or lack of professional input into projects based on "hands-on" experience. Organisations may see themselves as competing, implicity and explicity : on the one hand small organisations may compete with each other for the big funders; on the other hand, the major fund raising agencies may compete for attention in raising funds from the public. This can lead to not sharing information - important reports are often "internal" and thus not disseminated. It often appears in publicity material that children are some kind of special resource, reduced to objects of charity, depicted sometimes in very degrading ways.

Clearly, then, there is a lack of centralized information and research base to co-ordinate people working in the field of child welfare. Childhope, an organisation based in Guatemala, is trying to do this specifically with street children, but we need to widen the field much more.

Tentative solutions : networking

The answer to these problems must not lie in imposing structures and solutions from above in a wholesale, inflexible way, but rather in starting from the grass-roots solutions and making them stronger by forming an organic structure; in other words, a structure which can develop and grow by itself : a "responsive" model rather than an "initiative" model. This is the way development thinking tends to be progressing anyway; indeed this organic process is what is implied by the word 'development' itself.

In order to do this we must first locate the grass-roots organisations which are offering effective solutions to development problems. Here we feel that one aspect Streetwise International's methodology is advantageous. We send out volunteer expeditions to contact and investigate projects for children. This cost is effective; university students are eager to travel abroad with a purpose, they are able to raise money for expenses from university grants and company sponsorship, and they gain valuable experience in development work. Further, it uses an awareness that has already been raised, and develops a group of people who will provide material for education in the West, as well as providing detailed information about and personal contact with grass-roots projects.

This leads me to describe in more detail the work that we do. Streetwise International is a new non-governmental organisation which provides facts and information about the social and cultural situation of children around the world. We collect and disseminate information and help other people conduct and evaluate research on a worldwide basis. After a planning period in 1985, we have recently completed a full year's work on a purely voluntary basis.

We have organised volunteer expeditions to Egypt, India and Thailand to investigate both large- and small-scale childrens projects. These expeditions have provided invaluable information both for ourselves and for other networking organisations. Next year's expeditions are planned for South and Central

America, and Southern Europe.

In order to bridge the gap between research and action, we have initiated and organised the International Ethnography of Childhood Workshops, in 1986 in Cambridge and in 1987 in Canada, which brought together professionals and academics, from many different countries. An ongoing debate, coordinated by Streetwise International, has developed, and future workshops are planned for Zimbabwe, India and Australia.

In response to queries we have prepared briefing documents for child care professionals, academics, and journalists on subjects as varied as maternity care in South America, girl prostitutes in Kenya, child labour in the UK, and the international traffic in children. We have prepared cases for submission to the UN Sub-Commission on Human Rights. We have advised grass-roots organisations in developing countries on fundraising and project proposals. We have developed a large library/data-base of books, articles, newscuttings on children around the world, and have provided information for major organisations like OXFAM, UNICEF, Save the Children Fund, and Minority Rights Group.

Essentially, then, Streetwise International aims to respond to the perceived needs and queries of existing projects, of governmental, non-governmental and intergovernmental agencies of all kinds which are concerned with the welfare of children. We encourage the development of networks and the exchange of information between people working with children nationally and internationally.

The ethics of networking

This brings me to the question of the objects and ethics of networking. What does a "network" involve ? Like development, 'network' is a metaphorical term. A network, once formed, has to have an objective and a direction, otherwise it becomes a trap. If you allow me to play with the metaphors a little : nets can catch usefull things (like fish !) but they can also get snarled up with useless things (like old boots). Moreover, if they get too thick, they can block the way altogether, or catch the wrong things, because they are too big or too small. So we need to be aware of the dangers of "net"-working. We must stay responsive enough and flexible enough to be able to trap what is necessary and let the rest past through. We must exercise the ability to draw in the fish without damage to either fish or net - a good net should not need too much mending. It can be used again and again.

There are other factors to consider. As we have already suggested, there is a danger of the overuse of certain local NGOs; their programmes may become the solution for a whole country of region, which they were never intented to be. Because of a lack of professional evaluation, they become fixed as the model solution for everywhere. By evaluation, we mean self-evaluation as well as the "jetted-in" expert.

Following from this, there is a danger of manipulation (albeit well-intentioned) by larger NGOs. They have their guidelines and their projects and impose such projects on smaller organisations, insisting that local NGOs conform to their models. For example, they may only give money for medical supplies when a local NGO may be asking for help with social matters. Thus they may force smaller NGOs to grow in ways they do not want.

Often local NGOs do not know how the larger NGOs operate, and vice versa. To cite an example, we have been involved with a series of clinics in South America where the funding agency has insisted on the development of a centralised office. Given the communication system of the metropolis involved, this will only add to the project's difficulties; what they really need is money for extra transport, particularly a reliable car and expenses to run it. And cultural misunderstandings develop also. This project is a family concern; each clinic is run by a member of the family. From a Western viewpoint this may look like out-and-out nepotism, but in the context of South America it may be, in fact, the best way to run and monitor an effective service.

Thus, although Streetwise International emphasises the need to make connections we are also engaged in an ongoing discussion of the ethics of networking itself. We are in communication with a great number of small projects, and hence we find ourselves in potentially judgemental position. Whose name do we pass on if we are asked to tell people about 'good' projects ? On what grounds do we evaluate ? Some organisations are producing guidelines, but there is at present no forum for a general discussion on this matter, in which both large and small organisations are represented.

An obvious aid to this type of network is the use of computer data and data processing; but, as with individuals whose personal details are kept on computers, there is always a danger of incorrect information being stored, judgements being stored and thus fixed for all time. Projects need to know what information about them is being stored. We need to have respect for small organisations; and to make sure they have some access to this information; otherwise they will become objects in whole process, unable to control what is said about them and done on their behalf. Further, we need to be aware that the energy and commitment of a particular project organiser are not computable data. It is technically possible to network using computers, but we need to be aware of the pitfalls of standardisation, such as missing the small projects.

Our conclusion, then, is that there needs to be an international network of projects concerned with children in development - this is what Streetwise International is attempting to do. But there also needs to be a debate on information use in such a networking process. Before we wholeheartedly take on board the new technology, just because it is technically possible, we must first have a clear idea about why we are networking and what we are networking about.

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THE CONVENTION ON THE RIGHTS OF THE CHILD : RISKS AND POTENTIAL

Sanford J. Fox*

1. Importance of the Draft Convention

At the list of human rights treaties that have made their appearance since the Second World War, we can now expect to include a Convention on the Rights of the Child.[1] This would not be the first appearance of international law protection of children's rights in as much as there are antecedents of the forthcoming convention in earlier instruments addressing the question of children's rights including the 1948 Universal Declaration of Human Rights, [2] the International Covenant on Civil and Political Rights, [3] the International Covenant on Economic, Social and Cultural Rights, [4] and somewhat less well-known insturments such as the Geneva Conventions concerned with humanitarian law [5] and the International Labor Office's treaties dealing with child labor matters. [6]

In this context, the purpose of this paper is to examine what contributions the forthcoming Convention can make to the further development of children's rights and to identify the threats to this development presented by the current text of the document. Both contribution and threat can be formidable. On the positive side, the Convention can bestow an important equality on children by focusing attention on them as recognized members of the right-holding community [7]. The concept that children can and should have rights is often seen as such an alien and radical notion that endorsement of the concept by the international community, in the form of a legally binding multilateral treaty, can provide a much needed legitimization for the concept. The current dispersal of internationally recognized children's rights among a variety of treaties and declarations fails to provide the necessary focus, [8] and therefore fails to achieve the potential symbolism. Since this particular endorsement of children's status comes from the world at large, it can also powerfully facilitate the further development of children's rights on international, domestic and regional levels.

For these reasons the actual substantive contents of the Convention, what rights it defines and how well it defines them, may be considered of subsidiary importance compared to the fact of having a Convention. Yet, human rights treaties generally have little more than a fragile acceptance as serious bodies of law and it would not take a great deal of misconception and ineptitude in the Convention for it to invite dismissal as proof that children's rights cannot be properly articulated because there are no such things. In a very significant sense the substance of the Convention constitutes an essential verification of the concept of children's rights. Absence of that verification threatens to undermine not only international protection of children's rights, but of the concept itself as well. If that were the case, advocates of children's rights would be left in a weaker position that they were before the appearance of the Convention. From the perspective of those concerned with the advancement of children's rights, therefore, if there is to be a Convention on the Rights of the Child, it had better be a good one [9]. The remainder of this paper outlines the rationale for believing that the Convention can significantly advance the development of children's rights and for an apprehension that in its present form it represents a significant threat to that development. These explanations begin with the latter rationale, in the form of a review of the major shortcomings of the Draft Convention, then proceed to the former by way of a discussion of the grounds for believing that the Convention is not merely a codification of the lowest common denominator of current international respect for children's rights.

2. The Major Problems

Many of the deficiencies in the document have already been well described and need not be rehearsed in detail [10]. They appear as both conceptual and practical problems [11]. As to the conceptual problems, three sorts of failures are prominent (A) a consistent failure to recognize that questions of children's rights present major issues of duties as well as rights ; (B) a failure to place rights recognized in the Convention in the context of existing international law ; (C) a failure to avoid a promiscuous proliferaton of children's rights. Taken together, these three seriously erode the substantive consent of the Convention.

A. Children's Rights as Issues of Duties

The question of duties may be nominated as the one most poorly handled in the Draft Convention, for example in the provision that "The best interest of the child will be their (parents) basic concern" [12]. Two fundamental misconceptions are represented here. The first concerns the nature of treaty obligations. Since these are undertakings by sovereign governments only to do (or to refrain from doing) what is specified in the treaty ; a failure to carry out the duty constitutes a violation of international law for which opportunities for redress [13] lie in the hands of the other governments that are parties to the treaty. These are state to state duties, although in the case of human rights treaties there is sometimes the right to redress by individual victims of the treaty violation [14]. But nowhere in this treaty scheme of allocating rights and duties is there a creation of duties in individuals [15]. Thus when a government pledges to other governments that parents will have a "basic concern" for their children it is a misconception to believe that a legal duty has been created in parents to have that concern [16].

The most that can be said of the legal impact of this provision is that it represents an extremely awkward way of signatory states mutually pledging to see to it that parents have a "basic concern", either by threatening them with criminal prosecution if they do not, in the manner of the Genocide and Torture treaties, [17] by mounting programs of parental education, or otherwise. But herein lies the second misconception, one that relates to recognizing the limits of what can be accomplished by government action. Given the vagueness of the "basic concern" concept, it is difficult to conceive of even the most interventionist of governments imposing penal sanctions for failure to have a "basic concern" for children, and little short of omnipotence fantasy can support a belief that there are means, fair or foul, through which a government can redeem the pledge to insure a "basic concern" in all its parents. In this instance, therefore, there is no duty created where the drafters may have intended one and, to the extent that a legal duty may be created in a state party, it should not have been.

In addition to problems of vagueness, there are also unfortunate instances in which the Draft Convention is ambiguous on the issue of duties. Article 4, for example, includes a pledge to "take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members" [18]. Since this sort of discrimination may be practiced by private individuals as well as imposed by governments it is unclear whether the duty created is that the government itself refrain from the prohibited discrimination, or both. The issue is of some significance in societies where a commitment to freedom of expression may be seen as conflicting with government action against private discrimination that is manifested only in speech [19].

Ambiguity concerning duties further appears in Article 2(1) which states that the child has the right to a name. Does this mean that the state must create a duty in parents to provide a name and not call their child, "Number 6" or "Hay, you?". There is nothing in the text to indicate that states are obliged to do this. Or does it mean that when parents do provide a name that the state is in some sense obliged to accept and recognize the name ? Or does it mean that the state is not obliged to require parents to provide a name, but is obliged to create a duty in parents to have the child's name registered in some fashion, with the state being further obligated to maintain a registration system ? [20]. If the child is to have the right to a name there must be a duty or duties somewhere to see to it that he or she gets a name [21].

Sometimes the duty that is created by the text is so narrow that it is almost illusory. Rights concerning employment illustrate this. The state is required to set a minimum age for employement at any age it considers appropriate and is required to regulate the hours and conditions of employment of children in any manner it deems appropriate [22]. Thus the state must protect children against exploitative labor, but virtually any view of what is exploitative is acceptable. Protection of children against sexual exploitation is similary cramped. This is accomplished by obliging the state to prevent only those uses of children in pornographic performances that are "exploitative" [23]. The implied suggestion that there are pornographic performances by children that do not exploit them and that the state has no duty to prohibit all participation by children in pornography hardly merits inclusion in a document on children's rights.

The final example to be cited of the muddle concerning duties relates to Article 7 bis, concerned with the child's right to "freedom of thought, conscience and religion" [24]. Having singled out this crucial trilogy for protection in its first paragraph, the article makes no further mention of "freedom of thought", even though the most obvious means for protecting such a right would be for the state to assume a duty not to pursue any action adverse to the child on account of its exercise and perhaps even to seek to prevent others from doing so. Similary, the right to religious freedom granted to children by this article may be a "now you see it, now you don't" kind of right since the article may be interpreted as providing that the right to religious belief may be limited by national law if that law is "necessary to protect public safety, order, health and morals" [25]. It is less than generous to conceive of religious belief as a possible threat to safety, order, health or morals and only realistic to recognize that religious fanaticism in control of government quite easily perceives other religions as threats to morality.
The central fault of this particular article, however, arises from its failure to resolve the potential for conflict between the religious rights of the child and the rights of child's parents, although a number of solutions present themselves if the matter is viewed as raising the question of what the state's duties are. It is possible, for example, to require that the state's domestic law guarantees the child's religious freedom, subject only to a veto by parents acting in the child's best interests. Such a provision would constitute international protection of parents' rights at the expense of children's rights, something of an anomaly in a Convention on the Rights of Child. Alternatively, the convention could require that the state resolves any such conflict in favor of the child's view by declaring that the state shall not accord parents any special privilege to interfere with their child's religious beliefs. A third possibility would be to permit the state to adopt either an absolute right to religious freedom for the child, or the conditional right. Unfortunately, the wording of article 7 bis (3) fails to impose any of these duties [26]. The same failure to articulate duties as a means for resolving the conflict of parental and children's rights appears in the last paragraph of article 7 bis, concerned with religious education [27].

B. The Convention and Existing International Law

It has already been pointed out that provisions of many current multilateral treaties recognize the rights of children, either explicitly [28] or as rights for all people [29]. There are several relationships which the rights defined in the Convention have with these existing children's rights. Some are in conflict with the existing rights, with this conflict laying the basis for confusion and perhaps even the belief that the earlier rights have, in effect, been stripped of their international consensus and are no longer to be taken seriously. For example the very first article of the convention, dealing with the age-definition of a child, come into conflict with numerous bodies of international law, creating the possibility that the Convention may not apply to large numbers of children [30]. Conflict of another sort appears in those instances where the Draft Convention adresses an issue covered by detailed and specific rights in existing instruments, but does so with vague and general language, [31] thus creating substantial doubt whether the specific details of current children's rights still represent the international consensus.

Second, some of the subjects encompassed by earlier rights are simply not addressed at all in the Draft Convention. Among the existing children's rights ignored by the Draft Convention are those relating to a minimum age for marriage and forced marriages, [32] the right to be free from slavery and servitude, [33] forcible transfer of children frome one group to another, [34] affirmative action to eliminate discrimination, [35] and protection of the child's family from arbitrary inter-ference by the state [36]. The significance of this approach bespeaks ambiguity. It could mean that the unaddressed rights were considered of insufficient importance to be repeated. Or, if the Convention repeats no preexisting rights, the omissions could signal that the function of this document is limited to recognition of new rights. This latter meaning is, however, effectively suppressed by the fact that the Draft Convention does restate many existing children's rights, [37] leaving the omissions in the Draft Convention as a cloud above the omitted rights.

C. Promiscuous Proliferation of Children's Rights.

It is now recognized that it is possible to have too many rights entitled to claim protection as international human rights [38]. The goals of international human rights law do not extend to wholesale incorporation of rights protected within domestic law nor do they include harnessing a limitless draftsman's imagination to wish list of rights thus far entirely unknown to lawmakers. The international protection system is uniquely and precariously dependant on achieving consensus in a highly pluralistic world community and a failure to observe limits, in the form of a promiscuous proliferation of protected rights, as Alson points out, threatens to undermine "the integrity of the entire process of recognizing human rights" [39].

The Draft Convention engages in this undermining in one way that is obvious and in another that is not obvious. The former is evidenced by article 17 (1) which directs States Parties to "recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts [40]. By any reasonable set of criteria that recognizes the difference between useful things and human rights this part of the Draft Convention is a threat to the integrity of the process of recognition and requires deletion [41]. Candidates for a similar fate include the child's right to have his or her education directed to : "The development of respect for the natural environment and for the principles of the Charter of the United Nations [42] and the right to have the state "Encourage the production and dissemination of children's books" [43]. These are all worthwhile for children but they do not share the urgency and significance of the right to be free from torture or the right to be protected from serious abuse [44].

The less obvious overproduction of rights in the Convention flows from the great vagueness and breadth of many of its provisions. These linguistic pathologies are characteristics of many human rights documents and are usually taken as indications of how easy and legal it is for a state to withhold protected rights [45]. But vagueness and overbreadth present a two-sided sword, one that can be weilded by zealous advocates as well as by despotic regimes. Defining children's rights in terms wide enough to encourage and accomodate trivial claims enquates with creating a right to trivial benefits, or at least a claim to trivial benefits. For example, article 8 (3) of the Draft Convention requires the state to "take all measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible". Under this provision it can be urged that the state has undertaken an international obligation to respect human rights by providing music teachers in the day care center for children who like music and will benefit from instruction, by arranging for the appearance of major league baseball stars for children who will benefit from contact with a successful role model, by equipping each child care facility with a swimming pool, a gymnasium, a football field, etc. for children who will benefit from athletic instruction. These are, of course, all things that could reasonalbly be claimed for the well-being of children. But to permit them to be claimed as human rights is to trivialize the concept through promiscuous proliferation [46].

At worst, a Convention on the Rights of the Child, entering into force in its present form, could be a setback for children's rights. Provided sufficient time is made available to the Working Party that is drafting the document, it is, however, possible to correct the drafting problems, to conceptualize more clearly the important task of identifying duties, to harmonize the Convention with existing law, and to be appropriately parsimonious regarding the scope of what is to be protected by the instrument, the worst, therefore, may not come to pass.

But that is not the same thing as expecting the Convention positively to advance the domain of children's rights. It is possible to contend that since the Convention is being drafted by government representatives and since no government will agree to an instrument that identifies its own children's rights system as in violation of international law, the terms of the Convention can end up expressing no more than the lowest common denominator among the world's systems and not a set of obligations that confirms, expands and embellishes the rights of children. Being such a meager accomplishment, the Convention cannot provide the symbolic statement from which further progress on children's rights may proceed. As indicated at the outset, however, this sort of pessimism appears to be ill-grounded, understanding why this is so requires exploration of the procedures employed in drafting the Convention.

3. The Drafting Process.[47]

Comprehension of the procedure under which the Draft Convention progresses through the Working Group is of prime importance in developing a perspective on the value of the document and its potential uses. There are four handicaps or limitations present in the procedure which should be noted. The first requires appreciating that the members of the Working Group are all representatives of governments. They present official points of view and not their personal judgments. Some of these representatives are also knowledgable about children's affairs and about children's law, but many, perhaps most, are, holding positions in their governments which have little or nothing to do with the concerns of children. It would not be accurate to characterize the drafting sessions as meetings of experts. They are meetings of political delegations.

Second, although the meetings are simulateously translated into the languages of the United Nations in order to permit the delegations to follow the proceedings in their native language, the translations are not always of first quality and sometimes serious misunderstanding and acrimony result.

Perhaps we expect too much from a group that is not wholly expert, does not speak the same language, and views the problem of creating a treaty through a myriad of jurisprudential lenses. But it is the formal approval process that is most directly related to the lowest-common-denominator thesis. This has to do with how the group adopts the text of individual articles for inclusion in the Draft Convention. Articles are accepted by "consensus". There is no vote taken and nothing is considered as approved if any of the delegations present has some objection to it. This means that each country has a veto. It is not, of course, exercised in those terms ; rather a delegate will announce : "Mr. Chairman, my delegation cannot join consensus on that language." That kills the provision in question, although sometimes the chairman will follow-up the exercise of a veto by appointing a small group to try to work out compromise language that will hopefully attract a consensus. But failing that, nothing gets into the treaty that is not acceptable at all.

A reasonable inference from this state of affairs is that, at the end of the day, the treaty ends up representing the lowest common denominator of international practice. Since no country is going to accept a provision (will refuse to join consensus) that will bring its system of dealing with children into conflict with international law, the treaty cannot express anything better than such a minimal conception of children's rights. If this assesment is correct then despite the ability of the process to overcome the handicaps of lack of expertise, and linguistic and jurisprudential diversity, the presence of a veto power is itself sufficient to render the convention largely useless and irrevelant for the promotion of children's rights, even if the Convention avoids being a step back- ward, it is highly unlikely that it can be a step forward. Such an assessment must be rejected, however, and for at least five good reasons.

First it must be acknowledged that there is sufficient cynicism about human rights in sections of the international community so that some of the countries in which the status of children's rights is truly deplorable will nontheless accept provisions that indeed conflict with their practice, but on the assumption that they have no intention of complying with the treaty, even if they do ratify it. Human experience knows of such policies. It is of small concern to such a cynicism that the treaty may reflect an elevated view of children's rights, their normal practice is to support the rights and simply deny the existence of violations. The lowest-common-denominator thesis needs to be discounted by the effects of this cynicism.

Second, a similar cynicism exists when a country's acceptance of a provision in the drafting process - joining consensus - conflicts with its practice, but this time on the assumption that the country will never ratify the treaty, there is no intention to be legally bound by the provisions it approves of in the drafting process. Here too, an expanded version of children's rights in the Convention poses no real problem for the representatives of such a country joining consensus. This is not to say that cynicism of either sort always precludes an exercise of the veto power. Experience indicates that that is clearly not the case, if for no other reason than that even passive acquiescence may constitute evidence that a rule of customary international law has developed. But it is equally clear that the tension between a perceived national policy of frustrating the development of objectionable customary law and the cynicism of "Who cares what they accept, it will make no difference in my country", is not always resolved in favour of a veto. The fact that countries that are motivated by this cynicism participate in the drafting process at all is a great tribute to the high status human rights have achieved in the international community - their reputations would suffer significantly if they did not at least look as if they respected the rights of children. On this account, not all provisions that exceed the lowest-common-denominator are excised by the veto power.

A third reason why the lowest-common-denominator characterization wrongly conceives what is going on in the drafting process springs from the fact that there are still other countries whose practice would not comply with the treaty's requirements, but who genuinely want to change that practice and see the support of international law as an important means to that end. That would appear to be the case, for example, with several countries in which the traditional practice of female circumcision is no longer acceptable to the government and its condemnation in the Draft Convention is seen as a useful ally in an official program to change the tradition [48].

The fourth reason why it is reasonable to expect that the treaty will express a progressive view of children's rights calls attention to the error of assuming that the law and practice regarding this subject is in every country complete in its development. That is hardly ever the case. Law-making activity around the world has too recently recognized children's rights as part of its responsibility for this assumption of completeness to be even partially sound. It is mistaken, therefore, to believe that the only question confronted by a government is whether there would be a conflict between current domestic arrangements and the provisions of the treaty. The Convention may take a position on an issue of children's rights that has simply not yet been dealt with in a particular country. In these circumstances the Convention's policy may be seen as a desirable addition to an incomplete system of children's rights [49].

The final reason not to yield the field to the lowest-common-denominator thesis has to do with a country's opinion when it signs, ratifies or otherwise becomes a party to an international treaty [50]. It may decline to be legally bound by a particular part of the treaty, while become a fully obligated party to the rest of its provisions [51]. Thus, in the drafting process a country may acquiese in some draft provision but announce that for reasons relating to domestic considera-tions it intends to enter a reservation to that provision at the appropriate time. This announcement does not prevent the formation of a consensus; it may permit inclusion of a provision that exceeds the lowest common denominator.

If these evaluations are correct and the optimism concerning remedying defect is justified, then despite the veto power in the drafting process, the Convention on the Rights of the Child can be expected to include provisions granting rights to children which would present the opportunity for major achievements on behalf of children, such as the abolition of female circumcision, [52] the guarantee of due process in penal and delinquency proceedings, [53] protection against sexual exploi-tation, [54] and preservation of the culture of children of minorities or indigenous populations [55]. How effectively that opportunity is grasped may turn on the activities of the child advocates themselves, particularly the non-governmental organizations that have been participating in the drafting process. If they continue to utilize their considerable pursuasive powers after the Convention has been drafted [56] to obtain ratifications from as broad a range of countries as pos-sible and then to launch periodic and coordinated international campaigns to insure actual respect for children's rights, then far more can be expected than if their informal group were to disband and each organization were to pursue its own agenda. The Convention on the Rights of the Child can provide both an important symbol and a powerful tool for improving the condition of children.

Notes

* Professor of Law, Boston College Law School; Chairman, Board of Directors, Defense for Children International / U.S.A. Copyrights 1987 Sanford . Fox.

1 See Text of the Draft Convention on the Rights of the Child, U.N. Doc. E/CN 4/1987/WG.1/WP31, reflecting articles adopted through January, 1987 (hereinafter cited as DRAFT CONVENTION).

2 Universal Declaration of Human Rights, G.A.Res. 217 (III), U.N.Doc. A/810 at 71 (1948). Articles 25 (right to special care and assistance) and 26 (right to education) expressly recognize children's rights.

3 International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, entered into force Mar. 23, 1976, G.A. Res. 2200 (XXI), 21 U.N.GAOR, Supp (No. 16) 52, U.N. Doc., A/6316 (1966). Articles 6(5) (right to exemption from death sentence if under 18 at the time of the crime) and 10(2)(b) (right of accused juveniles to be separated from adults) recognize children's rights.

4 International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, entered to force, Jan. 3, 1976, G.A.Res. 2200 (XXI), 21 U.N. GAOR, Supp. (No. 16) 49, U.N. Doc A/6316 (1966). Articles 10(3) (right to be free from exploi-tation) and 13(2) (right to education) recognize children's rights.

5 Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, opened for signature August 12, 1949, entered into force Oct. 21, 1950, 6 U.S.T. 3516, T.I.A.S. No. 3365, 5 U.N.T.S. 287 (entered into force for U.S. Feb. 2, 1956) ; Protocol I Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts, opened for signature Dec. 12, 1977, entered into force, Dec. 7, 1978, U.N. Doc. No. A/32/144 (1977), 72 American Journal of International Law 457 (1978), 16 International Legal Materials 1391 (1977) Protocol II Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature, Dec. 12, 1977, entered to force Dec. 7, 1978, U.N. Doc. No. A/32/144 (1977), 72 American Journal of Interna-tional Law 502 (1978), 16 International Legal Materials 1442 (1977).

6 E.g., International Labour Office, Convention Concerning Minimum Age for Admission to Employment, Convention No. 138 (1973). The full range of international instruments protecting children's rights is discussed in Bennett, A Critique of the Emerging Convention on the Rights of the Child, 20 Cornell Int. L.J. 1, 18-29 (1987). See also, K. Tomasevski, Comparative Survey of the Draft Convention on the Rights of the Child and Existing International Legal Instruments on the Rights of the Child, Part 1: Draft Articles Adopted 1979-1985 (1986).

7 See Minow, Interpreting Rights : An Essay for Robert Cover, 96 Yale L.J. 1860, 1871-1882 (1987).

8 "(P)rovisions protecting the international rights and needs of children are scattered and disorganized. The provisions appear in numerous, often unrelated instruments, and are frequently buried in treaties or declarations that do not clearly indicate its (sic) subject matter. This disorganization makes use and development of children's rights difficult and hinders the establishment of international consensus and understanding". Bennett, supra note 6 at 30-31.

9 Cf. Bennett, supra note 6 at 42 :
If the Convention aims too high for rights that, though meritourious, are undeveloped or of questionable content and purpose, the final result may be failure to get the Draft Convention ratified, as well as a lowering of international consciousness on children's rights.

10 The most cogent criticisms are in Bennett, supra note 6. See also, Crouch, International Declaration/Convention Efforts and the Current Status of Children's Rights in the United States, in THE FAMILY IN INTERNATIONAL LAW : SOME EMERGING PROBLEMS 19 (R.B. Lillich ed. 1981); Schweitzer, A Children's Rights Convention - What is the United Nations Accomplishing ? id at 115; Cohen, The Human Rights of Children, 12 Cap. U.L.Rev. 369, 385-89 (1983). In recent years an on-going critique of the Draft Convention has also been contributed by an informal association of non-governmental organizations. See, e.g., The Draft Convention on the Rights of the Child, Report of Informal Consulations Among International Non-governmental Organizations (1983). For a description of the development and activities of this group see Cohen, The Convention on the Rights of the Child : Non-governmental Organizations and Implementation 6-13 (Unedited Second Draft 1985).

11 The practical problems refer to the inconsistent and inept drafting that is inherent in the process of creating a Draft Convention over a period of nearly a decade by a drafting committee whose membership changes from time to time, whose native languages include all six official languages of the United Nations, and who represent all of the world's major legal systems. Most of these somewhat technical problems, however, are likely to be remedied on a second reading of the next by the Working group and are not, therefore, discussed in detail here. Experience o suggests that the pluralism of its drafting group may render the final text less than completely satisfactory in any particular language.

12 Draft Convention art. 8(1).

13 These are mostly in the form of diplomatic, political and economic actions by the aggrieved government, although there may be some more or less feeble formal international enforcement machinery available as well. For a recent discussion of United States contributions to the impotence of international law enforcement see Highet, Between a Rock and a Hard Place - The United States, the International Court, and the Nicaragua Case, 21 The International Lawyer 1083 (1987).

14 This is still clearly exceptional, with the best example of the exception being the right of individual petition under the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed Nov. 4, 1950, entered to force Sept. 3, 1953, 213 U.N.T.S. 222. Cf. Filartiga v. Pena-Irala, 630 F.2d 876 (2d Cir., 1980) (tort liability for human rights violation under customary international law).

15 Bennett, supra note 5 at 3, n.2, appears to be mistaken in suggesting that duties are imposed on individuals by the Convention on the Prevention and Punishment of the Crime of Genocide, opened for signature Dec. 9, 1948, entered to force Jan 12, 1951, 78 U.N.T.S. 277 and the Convention Against

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Torture, opened for signature Dec. 10, 1984, G.A.Res. 46, 9 U.N.GAOR (supp. 51) at 197, U.N.Doc. A/39/51 (1984). These treaties only create a duty in states parties to punish those who commit genocide or acts of torture. It is no violation of the treaties for an individual in a state party to engage in such conduct; the treaties themselves are not undertakings by individuals. The central purpose of the two agreements cited by Bennett is, however, to insure that states parties recognize the proscribed conduct as violations of law and that they prosecute violations. International law is breached only if a state party fails to do these things. See Article 1 of the Genocide treaty; The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish. The Torture Convention, in Article 4(1), declares that "Each State Party shall ensure that all acts of torture are offenses under its criminal law". There is no explicit duty to prosecute here. Nor is it unusual that these treaties undertake to define the elements of a crime to be prosecuted domestically. Similar provisions are in Article 20 of the International Covenant on Civil and Political Rights, supra note 3 :
1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

16 The same misconception faults Article 14(2) :
The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

17 Supra note 15.

18 Draft Convention art. 4(2).

19 The same issue arises, of course, under Article 20(2) of the Convention on Civil and Political Right quoted supra note 14, and under Article 3(c) of the Genocide Convention, supra note 14, which makes punishable "Direct and public incitement to commit genocide".

20 Cf. International Covenant on Civil and Political Rights, art. 24(2) : "Every child shall be registrated immediately after birth and shall have a name".

21 Ambiguity also plagues Article 15(1)(a) which requires the States Parties to "Make primary education free and compulsory as early as possible". What is the duty here ? Does "as early as possible" mean at as young an age as possible or does it mean as soon as the State Party can manage to do it ?

22 Draft Convention art. 18(2)(a), (b).

23 Article 16 ter (c).

24 Draft Convention, art. 7 bis (1).

25 Id. art. 7 bis (2). There is a syntactic ambiguity in the text on this point;
The right shall include in particular the freedom to have or to adopt a religion or whatsoever belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief, subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health and morals, and the right to have access to education in the matter of religion or belief.
The ambiguity concerns whether the italicized part of this paragraph modifies only the preceeding clause relating to manifesting the religion or belief, or rather modifies everything that preceeds it in the sentence. The draftsmen of International Covenant on Civil and Political Rights, supra note 3, art. 18(3), neatly solved this problem by placing the italicized limitation in a separate sentence as a condition of only the right to manifest the religion or belief.

26 It provides : "The States Parties shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his right in a manner consistent with the envolving capacities of the child".

27 Draft Convention, art. 7 bis (4) is phrased so as not to inform the state whether it is obliged to respect the child's wishes in the matter of religious education, or is rather obliged to subordinate these to the parents'choice, or may adopt either policy.

28 See Bennett, supra note 6 at 27, n. 168.

29 See id at 27-29.

30 Draft Convention art. 1 :
According to the present Convention a child is every human being to the age of 18 years unless, under the law of his State, he has attained his age of majority earlier.

Tomasevski, op. cit supra note 6 at 3-4 :
A consequence of international norms for the protection of children being scattered in numerous instruments is a variety of age-limits used for defining the child by age. Amost every international convention dealing with some aspect of children's rights adheres to a different definition a significant proportion of them leave the definition of the child by age to

national legislation. The Draft Convention defines children as persons up to the age of eighteen. However, the opinion of setting a lower age limit is left to national legislations (sic). The fact that many international instruments set the maximum age for the definition of children under eighteen is not adressed. These two gaps leave the first provision of the Draft Convention potentially inapplicable in all the countries and for all the purposes where children have already been defined by a lower age-limit. If the Draft is to be appicable to children in general, the conflicting norms on age-categorization have to be addressed.
Conflicts are also analyzed in Bennett, supra note 6 at 18-31. The two ambiguities in this article should also be noted. "His state" may refer to the place of the child's legal residence, or the place of his or her domicile, or the place of his or her nationality or of the residence or domicile or nationality of one or both of his or her parents. The second ambiguity is in "age of majority" which may refer to the age at which voting rights accrue, or at which marriage may be contracted, or alcohol purchased, or a motor vehicle driven, or legally enforceable contracts undertaken, or a passport obtained, or a firearm owned, etc.

31 See, e.g., the comparison between existing conventions dealing with education and Articles 15 and 16 of the Draft Convention in Bennett, supra note 6 at 23. See also Tomasevski's analysis of Article 11's coverage of adoption issues with the provisions of existing instruments, and her conclusion that, "The Draft ignores the existing international legal instruments which spell out precise and detailed norms relating to the adoption of children". Op. cit. supra note 6 at 52.

32 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted Nov. 7, 1962, entered into force Dec. 9, 1964, 521 U.N.T.S. 231.

33 International Covenant on Civil and Political Rights, art. 8(1), (2), supra note 3.

34 This is one of the acts constituting genocide. See Convention on the Prevention and Punishment of the Crime of Genocide, supra note 15, art. 2. The right to be free of slavery and genocide is a human right also guaranteed by customary international law that is binding on nations even in the absence of their status as party to a treaty.
See 1 RESTATEMENT OF FOREIGN RELATIONS LAW OF THE UNITED STATES (Revised) - 702(a), (b) (Tent. Draft No. 6, 1985). There is no reason to believe that this part of customary law does not apply to children.

35 Affirmative action is provided for in the International Convention on the Elimination of All Forms of Racial Discrimination, art. 1(4), adopted Dec. 21, 1965, entered into force Jan. 4, 1969, 660 U.N.T.S. 195 and the Convention on the Elimination of All Forms of Discrimination Against Women,

arts. 3, 4(1), adopted Dec. 18, 1979, entered into force Sept. 3, 1981, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (1980), 19 International Legal Materials 33 (1980).

36 International Covenant on Civil and Political Rights, art. 17(1) supra note 3.

37 Article 19(2)(a) of the Draft Convention, for example, repeats the right to be free of arbitrary detention or imprisonment as well as from "torture, (and) cruel, inhuman or degrading treatment or punishment", found in Articles 7 and 9(1) of the International Covenant on Civil and Political Rights, supra note 3. Additional repetitions are enumerated in Bennett, supra note 6 at 44.

38 See, e.g., Alston, Conjuring Up New Human Rights : A proposal for Quality Control, 78 Am. J. Int. L. 607 (1984) :
First, the General Assembly has, on several occasions in recent years, proclaimed new rights (i.e., rights which do not find explicit recognition in the Universal Declaration of Human Rights or the two Interational Human Rights Covenants) without explicitly acknownledging its intention of doing so and without insisting that the claims lin question should satisfy any particular criteria before qualifying as human rights. Second, there has been a growing tendency on the part of a range of United Nations and other international bodies, including in particular the UN Commission on Human Rights, to proceed to the proclamation of new human rights without reference to the Assembly. Third, the ease with which such innovation has been accomplished in these bodies has in turn encouraged or provoked the nomination of additional candidates, ranging from the right to tourism to the right to disarmament, at such a rate that the integrity of the entire process of recognizing human rights in threatened.

39 Id.

40 Cf. International Covenant on Economic, Social and Cultural Rights, Art 7(d) which guarantees the right to : "Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays".

41 See the discussion of criteria in Alston, supra note 28 at 614-618.

42 Draft Convention, art. 16(1)(c).

43 Id., art. 9(b).

44 See Cranston, Are There Any Human Rights ? 112 Daedalus 1, 12 (1983), suggesting that human rights can be justified, provided we do not postulate as

human rights universal claims to amenities like social security and holidays with pay. Such things are admirable as ideals, but an ideal belongs to a wholly different logical category from a right. If rights are to be reduced to the status of ideals, the whole enterprise of protecting human rights will be sabotaged.

45 See, for example, Hoffman, Reaching for the Most Difficult : Human Rights as a Foreign Policy Goal, id. at 19,22.

46 Other examples of vagueness and overbreadth are noted in Bennett, supra note 6 at 36-38.

47 Part III is based largely on observations at the meetings of the Working Group in Geneva in 1986 and 1987, and on discussions with delegations at those meetings.

48 In 1987 the Working Group adopted Article 12 bis (3) which provides : States Parties to the present Convention shall seek to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. None of the countries affected by this article failed to join the consensus.

49 A recent analogous example of this is presented by the United Kingdom's passage of the Recognition of Trusts Act 1987 which incorporates and implements the Convention on the Law Applicable to Trusts and on their Recognition. In commenting on this, the Scots Law Times notes : "The Act will enable the UK to ratify the Convention in due course. It involves little change to existing law in the UK though it serves to clarify a number of issues where the existing law has not yet been fully developed". The Scots Law Times, 21 August 1987 at 263.

50 This option is calles a "reservations" and is defined as a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.
The Vienna Convention on the Law of Treaties, art. 2(1)(d), opened for signature May 22, 1969, entered into force Jan. 27, 1980.

51 For the consequences to other parties of one State making a reservation, see id. articles 19-21.

52 See supran note 47.

53 Draft Convention, art. 19.

54 Id. art. 18 ter.

[55] Id. art. 16 bis.

[56] See Cohen, supra note 10.

The Child and its Rights in Specific Situations

Various institutions -though certainly not all institutions in which children can be involved- are dealt with in this section. This reveals that, starting from the rights of children, such a situational approach can lead to specific and relevant insights into the matter. Thanks to such a great diversity, a number of common ideas can be distinguished. P. Evrard draws our attention to some of these in the form of "axes de réflexion".

Two contributions deal with educational problems in the family and in risk-situations, which may be connected with this. Jan Maeseneer and Linda Wittevrongel (Belgium) describe the methods which were developed in a local health centre.

Peggy Pearl (USA) describes how a multi-disciplinary group of volunteers can constitute a real support to local social workers in dealing with difficult problems related to cruelty towards children.

E. Van Helsuwé's text (Belgium) should be situated in the field of education. Starting from the child's right to live, it is an attempt to arrive at a profound didactic "back to the roots".

Boelen-Van der Loo (the Netherlands) gives a summary of the present situation in the field of children's rights in the hospital. Over the past ten years, much attention has been paid to this subject.

The children's rights movement has always shown a particular interest in the rights of children in institutions. Annelies Van Vliet (the Netherlands) discusses the right of complaint of minors in state institutions in the Netherlands. A careful and detailed description of the situation in the Netherlands makes it easier to compare with other local situations. As a result, the Dutch findings get an international touch.

INTRODUCTION

P. Evrard

Some lines of thought on the work of group 1.

The name itself of the group - object gave way to a diversity of approaches - yet some questions seemed to have surpassed the interventions and exchanges. Among these, two are of great importance :

1. In what way does the consideration of specific situations in which a child has to live, lead to determining the contents of a definition of concrete rights for children, in other words, on what do they seem to be based ? Two talks, respectively on the school and the hospital, permitted to capture the influence which developing educational themes, such as constraints in establishing communication endangered by the introduction of modern techniques have on mentalities, practices and consequently on legal definitions on these topics.

2. In what way do mediations within society (e.g. : the power of competent bodies to decide on authority conceiving youngsters, particularly the juvenile courts). (Other example : the power of opinion - arousing organisations) have the power to change representations, models, practices and consequently the definitions, including those concerning rights of youngsters ?

Several talks have shown the functioning of those mediations, with their effects, rather symbolic, mostly on the short-term apparent incoherences, but also, in the end on the long term their effects on evolutions, even without always being conscious of them.

For example, isn't it significant that today, you can hear someone who denounces the inappropriate character of the judicial incompetence of youngsters, talk about a certain right to irresponsability for youngsters ?

THE ROLE OF A FIRST LINE TEAM IN GUIDING CHILDREN IN RISK SITUATIONS AND IN PREVENTION : EXPERIENCES OF THE DISTRICT HEALTH CENTRE "BOTERMARKT/LEDEBERG"

Dr. Jan De Maeseneer
Linda Wittevrongel

1. Introduction

The district health centre 'Botermarkt' in Ledeberg is a first line multidisciplinary cooperation between general practitioners, domiciliary nurses, social workers, and a dietician. The team also workes with home help and geriatric-assistance services and with kinaesthetic experts.
Next to individual and group-oriented assistance, the team also pays much attention to health education and counselling, prevention, and participation on the part of the patient.

Ledeberg is an 'underprivileged' neighbourhood with a high population density, heavy traffic and few green areas. Many senior citizens live there; more than 20% of the active population is unemployed.

2. The first line team's guidance of children in risk situation.

Case X : Family X is facing charges of child neglect at the juvenile court. Reservations are made as to the domestic situation of family X, on the basis of the court delegate's report.

The family has three children; their father is unemployed. There are various problem areas : hygiene, finances, the children's school results, administration, medical problems. At the suggestion of the juvenile court's delegate, the family goes along with guidance by a team from the health centre.

Several interventions follow : contact with the school's educational advisory service, arranging health insurance, carrying out postponed medical care ...
Most important of all is the home help, called in to teach the mother very gradually the skills necessary for doing the housekeeping. She gets assistance from the home help, responsable for that area, and from the health centre's social worker.

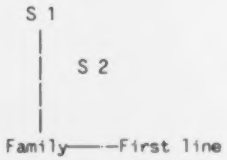
Team meetings are organized regularly to discuss the evolution; the family is involved in those talks. Every other month the social worker writes a report which she discusses with the juvenile court's delegate.

Because of the very tardy but definitely positive evolution, the children can stay with the family, whom they are much attached to.

3. Developing a model : from a categorical second-line model to a territorial first-line model.

3. a. The guidance of children in risk families is traditionally conceived and elaborated from a second-line setting.

Fig. 1. S = specialized services



- - - - - = information flow
________ = advice, guidelines

S = specialized Service

This approach is characterized by :

1. partialized information:

Conclusions are deriver out of just one or a very limited number of contacts with the social worker, who is often not familiar with the neighbourhood and the socio-cultural environment of the family.

2. one-way communication with the first line

Though the special services sometimes ask information or the first-line is used as a 'messenger', no real exchange nor collective decision-making develops. If everything goes wrong, the first line becomes a plaything in the battle between the family 'camp' and the 'camp' of youth protection, juvenile court, ...

3. little genuine guidance

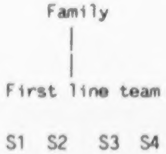
Although everyone agrees on the importance of assisting those families, nothing much becomes of this in reality. Vague arrangements, a lack of an overall guidance strategy, an inadequate information flow, often reduce the guidance to the social worker's monthly call.

4. a deficient coordination

A deficient coordination among the specialized services themselves and between the first line and those services.

3. b. **In the model as advocated by the district health centre**, the first-line team functions as the central axis in the assistance process. The specialized services support the first-line team with their expertise. Direct contacts between the specialized services and the family are limited. Consultation and coordination occur on the first line level.

Fig. 2.



S1, S2, S3, S4 = special services

This model conforms to the first-line concept, which has been advocated since 1978 by, e.g,. the World Health Organisation.

The advantages of this approach are :

- smooth info circulation and centralisation on an operational level (first line).
- optimal opportunities for calling in local, and non-professional intervention possibilities.
- limitation of the number of assistance people in direct contact with the family.
- complementarity of the expert knowledge of the day-to-day assistants and the categorical workers is used.

4. Prevention regarding children in risk situations

1984 witnesed the beginning of a project in the patients' advisory council regarding mistreatment of children. Before long the subject was extended by the participants to "working on education problems in a family and the risk situations that may be involved". After two work sessions the group agreed that the most important thing was to urge the patients to visit the centre to discuss these problems with a general practitioner, a nurse, a social worker.

A brochure, illustrated with a comic strip called "If the shoe fits, ...", was decided upon as the appropriate incitement.
The subgroups, which always consisted of an assistant and a few patients, broached various subjects : crying babies, switching to solid food, toilet-training, stubborn children, "does not want to eat meat", sexual mistreatment of children.

The brochure was written as an invitation to start talking about the subject in time, as an attempt to breach the taboo surrounding child abuse. Posters accompanied the brochure's arrival in the waiting room (March 1985).

Due to a lack of means, the district health centre cannot systematically evaluate nor expand this project. "If the shoe fits, ..." is among the most read booklets in the waiting room.

5. The bottlenecks of practice.

The district health centre has been involved on repeated occasions over the last years in guiding problems surrounding cases of child neglect and abuse. In a few cases we also managed to act preventively. The generalization of this approach faces a number of problems :

- part of the general practitioners show too little interest in the problem and in cooperation. However, a favourable turn is becoming apparent - which is due, among other things, to a changed schooling.

- the first-line service for children par excellance, viz. 'Child and Family" often faces a personnel shortage and is not well integrated everywhere in the first line.

- general social work in the first line is poorly developed or even non-existant : neither the public centres for social welfare, nor the social work at the National Health Services, nor the acknowledged centres for social work can realize this first line territorial task (the social worker in our district health centre has a special temporary contract !).

- the willingness for cooperation, consultation and the joint development of a coordinated assistance strategy is only accepted with difficulty in many specialized services.

- the government policy with regard to this problem focuses on the development of large-scale centralized coordination centres and not on the support for local first line teams.

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THE COMMUNITY-BASED MULTI-DISCIPLINARY CHILD PROTECTION TEAM AS AN ADVOCACY GROUP FOR CHILDREN

Dr. Peggy Pearl

Popular and professional publications regularly focus on the growing number of identified and reported cases of child abuse and -neglect. The number of cases reported to the state hotlines was up 158 percent from 1976 to 1984, [1] and up an additional 10.7 percent from 1984 to 1985. Until in 1986, the American Association for Protecting Children reported 1,911,771 children entering the protective services system because of abuse or neglect [2]. Greater public awareness has increased the number of cases of child abuse reported, thereby increasing the number of cases that protective services must serve and the greater resources needed. The increased number of families needing help and support from social service agencies comes at a time when public funds for social services are actually decreasing [3]. Consequently, the caseload per caseworker is increasing and public dollars for treatment are decreasing, causing conditions that increase stress and "burn-out" [4 5 6 7 8]. Caseworkers under the strain of increasing workload are feeling more "alone", and "less efficient" in their difficult job of helping families in crisis. Caseworkers experience more stress when they feel they are making difficult decisions alone, often without adequate specialized knowledge, and trapped in an unsupportive system. By discussing the values of a volunteer community-based multi-disciplinary child protection team (TEAM), this paper will describe how one volunteer community group assisted their county protective services caseworkers in managing difficult child abuse and neglect cases to reduce stress and "burn-out" in the workers; and increased their advocacy efforts on behalf of children. It will outline the structure of the TEAM, benefits to the community protective services agency, and resources developed due to the efforts of TEAM members.

Structure of TEAM.

The TEAM is responsible to a non-profit community advocacy group. The TEAM members were selected on a one-year basis from professionals in the community by the Multi-disciplinary Advisory Committee of the sponsoring non-profit community advocacy group. The Multi-disciplinary Advisory Committee consists of representatives of each of the disciplines on the TEAM. Members of the Multi-disciplinary Advisory Committee nominate members for TEAM membership; then the local committee makes the final decision on the TEAM membership. The TEAM members include a pediatrician, a psychologist, an attorney, a public health nurse, an educator, a child development specialis and representatives from the juvenile court, the prosecuting attorney's office, the Regional Center for the

Developmentally Disabled, and the Division of Family Services. A Division of Family Services supervisor serves as TEAM coordinator. Each TEAM member is appointed an alternate to serve in his/her absence to insure that all disciplines are consistently present at weekly staffings.

Each agency and/or individual signs a contract with the sponsoring group for service on the TEAM. The sponsoring group in turn contracts with the state social services agency for the TEAM to provide consultative services. Each TEAM member serves as a volunteer without compensation from the sponsoring advocacy group or the state social services agency.

Since the TEAM meets voluntarily, the TEAM established the time, day, and place for maximum convenience of the TEAM members and protective services caseworkers. The TEAM meets weekly to staff cases brought by protective services caseworkers. From November 1977 to September 1987, the TEAM has held 924 consultative staffings--including initial presentations, reviews, and/or restaffings.
Caseworkers volunteer to present cases to the TEAM for consultations. Criteria for Selection of Cases is presented in Table I on the following page. No caseworker is required by his/her supervisor to present a case. A voluntary rotation system is used to determine when caseworkers present cases to the TEAM.

Each Friday priority is given to cases needing immediate consultation and/or cases involving the death of a child. (Upon the request of caseworkers in other counties, the TEAM has provided consultation for six cases from outside the county of prime service).

At weekly staffings, the caseworker provides a standardized form with basic background information on each case and a summary of steps taken to date, and sets forth specific questions that need to be answered by the TEAM. Each case is discussed and evaluated and the TEAM concludes with specific recommendations concerning management of the case. Follow-up reports on the progress of each case are provided to the TEAM on a routine basis. The TEAM may be advised of changes that occur, or cases may be re-staffed as desired by the caseworker and/or TEAM.

Table I. Criteria for Selection of Cases.

1. Any case for which a worker would like consultation.
2. Any case involving physical abuse of children less than two years of age.
3. Any case involving severe abuse and neglect.
4. Any case involving repeated abuse where prior intervention has not provided child protection.
5. Any case where help with proper diagnosis is needed.
6. Any case where a parent is considered dangerous.
7. Any case which because of its complexity requires consultations in order

to provide child protection and to formulate appropriate treatment plans.

8. Any case involving the death of a child.
9. Any case of child abuse or neglect in which long-term foster care or termination of parental rights is being considered.
10. Any case in which there is a question of whether abuse has occured, or not.

Case discussion should be limited to a total of thirty minutes with a ten-minute presentation by the caseworker. A summary of TEAM recommendations follows each discussion. At the first hearing, a case review date is set to keep the TEAM members aware of progress and the feasibility of their recommendations. TEAM meetings are limited to a total of two hours each week. The TEAM members are encouraged to focus on critical decisions in order to keep within the alloted time. Case fact sheets, the recommendations, and all other relevant information on cases is kept in a notebook file which has to be kept at the TEAM meeting site.

Value of TEAM to Protective Services

Annually the value of the TEAM is identified by protective services caseworkers and TEAM members. The Multi-disciplinary Advisory Committee prepared a 23-item questionnaire using a combination of open-ended, forced-response, and Liekart-type items. There was a related, but different, questionnaire for the caseworkers and TEAM members. The data this report represent responses from 100 percent of the TEAM members and 26 of the 28 caseworkers for a response of 92.9 percent of the caseworkers. Questionnaires were mailed to TEAM members. Follow-up phone calls were made on the date questionnaires were due to be returned to all TEAM members, asking them to complete and return the form if they had not done so yet.

Questionnaires were placed on the desk of each caseworker and reminder notices were placed on each desk the day the questionnaires were to be returned to the unit secretary. Neither questionnaire asked for the respondent's identification. The data gathered to identify the value of the TEAM is summarized in Table II on the following page.

Evaluation of TEAM.

Support was the item most frequently identified as of value by protective service caseworkers and most frequently identified by TEAM members as of value to caseworkers and the community. Fourteen of the twenty-six caseworkers identified support as a value of the TEAM. All of the eleven TEAM members identified support of caseworkers as a value of the TEAM. The TEAM, therefore, was valued as a supportive resource for caseworkers.

Table II. Rank order value of TEAM as identified by caseworkers and TEAM members.

ITEM VALUED	CASEWORKERS N=26		TEAM MEMBERS N=11	
	FREQUENCY OF REPLY	RANK ORDER	FREQUENCY OF REPLY	RANK ORDER
SUPPORT	14	1	11	1
ADVOCATING W DECISIONS MAKERS FOR CHANGES	12	2	4	2
OBJECTIVE EVALUATION OF CASES EXPERT ADVICE/CONSULTATION	8	3		
CO-ORDINATION OF SERVICES	7	3	1	5,5
CLARIFICATION OF PRIORITIES	6	5		
LEARNING OF OTHER RESOURCES	2	7	3	3
NEW APPROACHES	2	7	1	5,5
DEVELOPING RESOURCES	2	7	2	4

Advocating with decision-makers in a variety of settings was the second most commonly identified value of the TEAM by both caseworkers. Twelve of the twenty-six protective service caseworkers and nine of the eleven TEAM members identified the advocacy efforts of TEAM members as a value of the TEAM. Related to the value placed on advocacy, eight caseworkers identified the strong relationship between the support given to caseworkers directly and the indirect professional support derived from the advocacy efforts as a value of the TEAM.

Expert advice/professional consultation, objective case analysis, and assistance in clarifying case priorities were identified by caseworkers as values of the TEAM. The TEAM members identified their expert advice as value to the caseworkers.

Co-ordination of services was identified by seven of the caseworkers and one of the TEAM members as a value of the TEAM. Co-ordination of services was fourth in rank order of the values of the TEAM as identified by the caseworkers and ranked with a "resource for new approaches" in the fifth/sixth position as identified by TEAM members.

Two caseworkers and three TEAM members identified learning of other resources as a value of the TEAM. Learning of other resources was ranked seventh by caseworkers as a value of the TEAM and third as identified by TEAM members. Learning new approaches as a value of the TEAM was rank ordered at the same rank as learning of new resources, seventh, by caseworkers.

Two caseworkers and two TEAM members identified other values of the TEAM. The three additional values of the TEAM were : (1) education of professionals about child abuse and neglect including legal concerns, (2) education of professional about the role and legal restrictions of the caseworker, and (3) a way to inform and learn about community resources and community needs so that programs can be developed to serve the community's needs in a better way.

Summary of Findings.

Support and advocacy by professionals from a variety of disciplines were the items most frequently identified values by protective services caseworkers and most frequently identified by TEAM members as of value to caseworkers and the community. The TEAM is a supportive resource that a community can provide to caseworkers. This support can be a valuable and readily available resource to reduce stress and "burn-out" among caseworkers and improve the protective services system.

Expert consultation and advice from professionals were the next most commonly identified value of the TEAM by both the caseworkers and TEAM members. In an era of greater emphasis on cost-effectiveness, the TEAM is a natural community resource. The TEAM provides the unique contribution of the eleven consultants representing the different disciplines to the caseworkers at no additional dollar cost to the tax-payer. Time, if it were available, on a contractual basis would cost at least $ 50.00/hour per TEAM member. The social service system is given a highly desirable resource for resolution of problem cases; this resource is neither affected by the "if-funds-are-available syndrome" nor "buried" in the constant proliferation of bureaucratic paperwork. It is also readily available for the convenient and efficient utilization of the caseworker who does not have to place telephone calls, wait, call back, etc. Consultative services provided by the TEAM have been highly valued by the caseworkers.

The TEAM was designed to facilitate communication among professional working with cases of child abuse and -neglect. The TEAM process has made the participating individuals, agencies, and disciplines aware of each other and of the unique contribution of each. It has allowed individuals the opportunity to share common concerns and findings as they work collectively as a consultative group. Caseworkers have become more knowledgeable about the services and expertise of each of the disciplines and, therefore, better consumers of the services needed by their clients, and more aware of services previously unknown to them. Caseworkers have learned how to get the most out of the resources of the community by direct conversations with representatives from the respective disciplines.

The TEAM has been an educational forum for professionals of the community as they learn from each other and from the training provided to the TEAM and caseworkers. TEAM members have learned the ethical and legal role of the caseworker and other community professionals.

Resource Development

Additionally, community resources and the areas of need in the community have been identified. The TEAM has also provided data to the sponsoring group that precipitated the organization of a home visitor program, crisis nursery, and self-protection/sexual abuse prevention programs. In addition, the public school representative worked to bring before- and after-school care to the community through a contractual arrangement between the schools and the "Family-Y". The TEAM child development specialist developed a preschool day treatment program with parenting classes after being frequently involved in discussions of the need. TEAM members have informed other agencies on the need of parental classes, especially for teens, and some additional resources have been developed. The prosecutor's office has also brought in experts to provide community in-service training on sexual abuse investigations.

TEAM members have provided expert testimony to decision-makers to bring about changes in state statues (RSMO 210.110-210-189) and administrative policies. Several TEAM members testified for changes in the Termination of Parental Rights Statute RMO 211.442-211.487 based on TEAM discussions. Other legislative changes related to changes in the videotaping of child witnesses in both the criminal and juvenile court cases. The successful multi-disciplinary approach to case management experienced by TEAM members led them to advocate for more use of the multi-disciplinary approach in both investigations, and treatment of child abuse and neglect cases, and changes in both statutes and policies to allow for such procedures. Staffing difficult cases gave TEAM members re-newed convictions that greater preventive efforts were needed. Subsequently, TEAM members advocated for additional state dollars for preventive services as well as additional dollars for treatment.

Summary

When the community acknowledges that it has a child abuse and -neglect problem and decides that they have a responsibility to assist that problem, there are several alternatives. The citizens of one town decided that they were responsible for assisting the caseworkers who are legally designated to work with abusive families. They studied the existing conditions, identified specific needs and reviewed resources. These citizens identified the need for support of caseworkers as they deal with the problem cases and more efficient sharing of information among professionals as critical needs. In seeking to solve the problem, they adopted the concept of a volunteer community-based multi-disciplinary child protection TEAM to the community. By initiating the TEAM, they provided greater support to caseworkers to help reduce stress and prevent "burn-out"; greater access to professional consultations; more efficient use of resources; and unforeseen accomplishments such as identification of other needed services, education of professionals and greater communication among community professions, and simplification of other aspects of casework. The children and families of the community have seen, subsequently, new resources developing from the needs identified by the TEAM. These resources include Teen Parenting, a Crisis-Shelter, Preschool Day Treatment, Before- and After-School Child Care, additional counseling, prevention program, parenting classes, and support groups. Additionally laws and administrative policies have been changed to protect children more effectively. TEAM members and caseworkers value the TEAM because it has provided the support to help reduce stress and prevent "burn-out" in a social service system strained to meet the needs of more families in crisis with fewer state resources. Each community should give serious consideration to establishing a TEAM to support caseworkers as they cope with their escalating caseloads and declining treatment resources.

Notes

1. "Reports of Child Maltreatment Increase Again", Protecting Children. 2:2-3 (1985).

2. American Association for Protecting Children, News Release, October 29, 1986. Denver, CO.

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7. Leiter, Michael P., and Kimberly Ann Meechan, "Role Structure and Burnout in the Field of Human Services", Journal of Applied Behavioral Science. 6:47-50. February 1986.

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EDUCATION FOR PERSONALITY DEVELOPMENT

Eric Van Helsuwé

I would like to begin this address with a thoughtful reference to the 1972 UNESCO report 'Learning to be', which was published under the chairmanship of Mr. Edgar Faure.

The report was a momentous attempt to give a complete survey of what was living in the field of education all over the world in the early seventies.

I think of chapter 8 in particular. It enounces elements for contemporary strategies to bring about educational innovations and reforms.

The proposed strategy is synopsized in 21 principles, a few today of which I am still particularly attracted to, because they clearly focus on the important role imparted to the individual learner in the process of his lifelong education.

In the seventies quite a number of european countries worked hard to uplift their educational systems. A fair amount of good intentions were formulated as to put the learner in the focus of education, but ... educational atavism laid heavy weight on the materialization of the new ethos. After all, nothing fundamentally changed. Probably the UNESCO report 'Learning to be' came at the wrong time, so that its explicit message couldn't have the impact it deserved.

The entire proposed strategy echoed a trend in education which was quite alive in so-called alternative educational experiments in quite a number of countries. Most of the time they were referred to as being marginal and ephemeral. Their antagonistic character generated from a current of thorough criticism of the existing and unchallenged educational systems. In one way or another the 21 principles sounded like an official recognition of the values rediscovered by alternative educational researchers. To be honest, it gave due support to our hopes and expec-tations that the new trend in education would one day get better chances to break through and in the end put every individual in a position to keep learning throughout his life and that life long education, in its nobliest sense, would become the keystone idea of the learning society.

According to the report the dimensions of living experience must be resorted to education. The importance of institutionalized schooling was brought back to more realistic proportions by putting that not the path an individual has followed is important but what he has learned and acquired. Access to different types of formal education and professional employment should depend only on each individual's knowledge, capacities and aptitudes, and should not be a consequence of ranking knowledge and skills acquired in school, above or below experience gained in private studies, research of work. Moreover, teaching,

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contrary to traditional ideas and practice, should adapt itself to the learning person, the learner should not have to bow to pre-established rules for teaching.

The most innovative principle of all promulgates that the new educational ethos makes the individual the master and creator of his own cultural progress and that therefore selflearning has irreplaceable value in any educational system based on effective learning methodology.

These principles, formulated in 1972, sound even today almost revolutionary. Since the time I studied the report I kept on reflecting on the inherent message, which gave me new energy when again and again my search was discouraged by external influences and pressures.

In my educational practice, ever since 1962, I have been trying to develop myself, step by step, the new mentality which I thought necessary in order to change my educational approach of children into a joyful learning event and child focused process rather than a teacher centered and curriculum bases system.

Hundreds of girls and boys helped me discover that personal growth and progressing development have primarily very little to do with the systematic acquisition of skills and knowledge, but are generally generated in a very subtle and time and energy consuming process of self discovery and of personality development. In fact the first work to be done is to interest the child in the richness of life, work and knowledge, to develop his instrument of knowledge with the utmost thoroughness, to give him full mastery of his entire personality. Afterwards the rapidity with which the child will learn and progress will make up for any delay in taking up regular studies, and it will be found that, where first he learns a few things apparently badly, later he will learn many things thoroughly well.

The basic principles of learning I gradually discovered in the many joyful learning experiences of the children I had the pleasure to guide on their way. Due to their gratifying response, I happened to develop an ever growing attitude of respect of the person of the child, who is permanently in search of possibilities to grow from within. Unfortunately too many children went through so many frustrating moments of life that very often their natural gift to grow seems blocked in their inner personal resources of vital, mental and psychic energies. It is since I really understood that children are persons in need of personality development that I felt what love for the child means.

In my personal quest of the validity of this view I have been faced with the recurring educational controversy of education for personality versus the almost monolithic curriculum based educational edifice.

But I found that education, if reduced to mere learning for the sake of learning and preparing oneself for later life, will never be education for personality development, nor will it have a liberating effect upon the inner energies, which oppressed by outer frustrations, cause so many pains of growth ... but liberated and harmonized in a well guided proces of growth will bring the personality of the child to the fullest development to the benefit of his entire person in adulthood.

Education is a method of personality development only if the whole person of the learner is constantly involved and consulted in his process of growth. A holistic vision sheds more light on the interdependence of all phenomena pertaining to the personality of the individual. Unfortunately, educational thought today is still largely inspired by the mechanistic views upon the practice of learning, and it is indeed very difficult to bring a mind trained to think like that to better insight.

At present there is not yet a well established framework that would accomodate the formulation of the new educational paradigm, but the outlines of such a framework are already been shaped by many different individual educators who developed new educational approaches and put them into practice to prove their efficiency.

One such approach, among others, is the education for personality development. What is most significant is the logic supporting the methodology of education for personality development, which reinforces at every turn the need to place the learner, in casu the child, his personality and inner law of growth at the center of the entire proces of development.

A duely critical mind acknowledges that any sensegiving capacity of a growing human being will adequately function only if supported by the ability of interindividual interaction. The social dimension should constantly be the frame of reference for the individual in process of harmonious development.

The modern educationalist should truly be in search of the inner being of the child he is guiding. He comes to realize that a child is not a plastic material to be moulded and pressed into a shape as desired and decided upon the parents, the educators, the teaching programm, the regulations of a centralized educational administration. He recognizes the individual differences, necessitating variations in psychological treatment, presentation of materials of study, and criteria for evaluation of performance ... if at all necessary.

Educationists who reflect on the fundamental raison d'être of their profession know that the examination system should be thoroughly rethought, if not abolished at all. The current system is not in accordance with the general acceptance that the new model of global civilization asks for a flexible and adaptable person, whose strenght pertains in his harmonious developed personality ... as its ideal world citizen. That citizen of the world is called for to suit ever changing conditions in all aspects of life. The enduring old educa-

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tional system doesn't deliver human individuals of the sort who are free in themselves and responsible for the entire universe they keep in trust.

Humanity is facing a state of profound crisis. It has been described in many ways by emninent authors as being a complex, multidimentional crisis whose facets touch every aspect of human life. The crisis is indeed of intellectual, moral and spiritual dimensions. In fact it can be reduced to humanity's identity crisis. It will be surpassed only if by individual endeavour the level of human consciousness will be raised.

Little by little increasing numbers of individuals are affected by the identity crisis of their species. It is a remarkable fact that as crisis develops more and more individual children are affected. The new global situation asks for an wider, deeper and higher consciousness in the new type of human being who will face unprecedented situations and problems and will have to find equally unprecedented solutions for them.

Education of today is not preparing children for real life, it still initiates in the 'game to play'. Hence the unprepared individuals stand unprotected from within against the ever changing influences, energies and pressures poured out upon them from all sides.
I would rather not enter into a comparative discussion as to what constitutes personality. This would bring us too far from the intended considerations about education for personality development.

During 25 years now I have been working with children aged between 12 and 16. They offered a field of experience with scientific value to me. From this life experience I have been drawing a good number of conclusions, which I found scientifically reduplicated most of the time in fragmentary research in fields not immediately related to educational problems of the age group I am confronted with.

Moreover, most of my conclusions have been checked again and again over the years in ever renewed experiences with other and more children.

The methodology of life is not the same as the methodology of science. The laws of life, growth and development cannot be separated from life itself in order to be studied, observed, analysed and checked according to the principles of causality and reproducibility. Development and growth of personality pertain to the holism of life.

The views traditional psychology has of the personality still seem to me too mechanistic in order to give a valid and functional support to the educational methodologies which continue to prevail.

Problem is that the necessary energy to change these views will never possibly be generated by educational researchers who aren't prepared to make a fundamental criticism of the traditional methodologies they apply. There is also the fact that the criticism has to be made almost individually by each and every teacher, educator, learning guide on the experimental basis of what education for personality development means to the whole process of learning, and vice versa.

The proposed type of education does not allow any principle generating rigidity of practice. The teacher will have to drop all methodology preconceptions. What he needs first is the capability to be flexible and adapt his attitude to the paricular needs of each individual child in the ever changing but specific learning circumstances. In doing so the teacher will witness an inner change and discover that he is a living learning aid rather than a teacher and trainer and evaluator. Little by little he will feel a growing capacity of accepting what comes from the learner, rather than feeling the urge to force knowledge and skills upon his students.

Consequently he will be completely at ease in offering the utmost of himself to the growing demands of the children he guides on their way.

It is noticed that this change is radical, subtle and a first condition in order to be able to open the wide field of experience in which children are allowed freedom to discover that they are in the center of their own process of development. A process not forced upon them by the stressing, very often frustrating and too often limiting exigencies of a curriculum based training resting on three keystone elements : lecture, syllabus and examination.

Most of the difficulties in traditional education are caused by the general accep-tance that children are to be developed by mere training. Henceforth most programmes of study are programmes of training. On top of that these programmes of training are curriculum wise presented to the children, whether they are psycholo-gically ready or not.

A true learning guide does not use preconceived programmes nor has he fixed methods and stereotyped methodologies. His learning guidance consists of the natural organic organization of the movements and the process by which the child can express itself while discovering all the aspects of life, within himself as well as around him.

A basic mistake in our current system of education is that preschool education prepares for primary school; primary school prepares the children for secundary schooling; the humanities prepare for university ... and university does not prepare for life. By the time a student reaches the highest level of his competence he has been through a long cycle of alienating training ever focussed on an aim beyond his person.

Education for personality development does not aim at qualifications for a job whatsoever. Its first concern consists of the harmonization of all inner energies, qualities, tendencies present in the individual being in order to

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bring him to the point where he will decide for himself in what way he will contribute in the common progress of humanity.

To reach that point of maturity the individual child will need time and a long process of selfdiscovery, rather than a continuous training and initiation in knowledge and skills.

During the process of selfdiscovery the learning guide and the child will apply themselves even to the smallest details and to apparently insignificant actions with as much care and thoroughness as to the greatest and most important tasks.

The principles of education for personality development impose a great responsibility on the learning guide and demand from him mastery of his own personality and in addition to that extraordinary qualities of a profound psychologist.

He will be skilled in flexible organization. First priority therein will be assigned to the varied and varying needs of the learner's growth.

At this point I would like to stress the importance of freedom of experience, continuously interwoven with the process of selfdiscovery. Not the subject of study should prevail, but selfexperimentation, the possibility of educating oneself, discovery of the inner needs and qualities, the limitations of the inner person, the liberation of the available energies, the harmonization of all the aspects of the being ... and their growing relation with what can be learned and with how the training will be possibly envisaged.

It goes without saying that the education for personality development requires individual approach of each and every child. Only in very specific circumstances the group approach should be applied. Group work and group study have been proved efficient only when students asked for it themselves and were ready to organize it on their own. In the particular case of younger children subtle and flexible use of free grouping for work and study is necessary.

The lecture, the syllabus and the examination are, as I said before, the three keystones of the traditional schooling. In order to be of any further value in education for personality development they should be entirely remoulded.

The lecture and the syllabus, sure, can be efficiently used if they are reduced to their pure instrumental function instead of being institutionalized ways of pouring knowledge in the minds of learners. They are indeed adequate means of training and will be successfully used by the students if either the lecture asked for or the syllabus looked for correspond to a real need felt and identified by the learner.

The necessity of a lecture or the need for a syllabus will always be matter of comprehensive discussion between learner and learning guide.

A lecture not asked for by the learner will be dry, boring, ineffective, irrelevant and therefore useless, unless it is used to create a collective atmosphere, to initiate rapid and massive programmes or training asked for by groups of students, in order to explain the possible training programmes, introduce a subject of interest or present a panoramic view of learning possibilities. Whatever lecture should always vibrate with the sincerity of the learning guide.

Very often even primary school teachers cover their subject matter with lecture style teaching. They use the blackboard as attention focus point and get the pupil's boredom in response.

In general lecture excludes participation and involvement and leaves the children inactive and uncreative. The passive attitude of the learner very often turns into restlessness and even in violence. Lecture as a systematic means for teaching is devoid of value.

It becomes clear that in the education for personality development where the lecture and the syllabus are reduced to their learner centered instrumental dimension, the traditional examination system looses its raison d'être. In short it can be said that the examination system should be radically abolished and replaced by a habit of selfevaluation. There are many ways in which a learner can acquire the exact feeling about the measure of himself he put into work the work he finished. There is also the fact that a person who has the feeling he fully acquired some knowledge or is sure to be skilled in one technique or another, will be happy to prove so. This happiness will give him the reassurance to pass any test which measures his knowledge or skill at that given moment. A test under such inner circumstances is a stepstone for progress and selfaffirmation, and will never have frustrating effects on the student. It will give exact indications of the inner status of the student in relation to what he learned and how he learned it.

Real progress becomes possible if the learning activity generates integration of what is learned. This is the basic law of progress in learning. Integration requires energy, energy emanating from different parts of the inner person. This hidden energies are freed and materialized into motivation by curiosity. Curiosity is a spontaneous expression of interest. Curiosity is a playful attitude which gived the individual the joy of discovery. In its turn the joy of discovery accompanies the necessary energy to take up the learning process and if necessary the moments of training. In the inter-play of curiosity, interest, learning and training resides the entire magic of progress and development.

In the current process of discovery there will occur disparate and unordened moments of learning. At the very moment the child awakes to the necessity of mastery and perfection, even for small details or unimportant actions, his motivation for training will begin to operate and prepare his inner being for subtle forms of training.

As the personality develops the acceptance of training will grow and more complex programmes of training will come within the reach of the learner.

Question is now how to proceed if the learner and learning guide do not have the traditional means in order to keep the learning process going on ?

There are indeed these two very important stages, or aspects, or periods in the proces of learning. The first may be called "culture", the second may be called "training".

It has to be said immediately that the two are interlocked. And in such a complex process as that of education, it is impossible to make clear-cut distinctions and compartments.

These two words "culture" and "training" have certain connotations, and they need to be clarified.

We attribute to the word "culture" that process of learning which is a result of a spontaneous and natural growth of faculties, capacities and personality by virtue of an easy stimulation of the environment, inherent attractive urge of a happy influence, something that may in a way be described as a leisurely growth of genius.

By "training" we mean the proces of learning which involves regular, persistent, methodical, rigorous and meticulous excercises. This occurs where the natural growth has reached a high point of maturity which demands a further development of precision, clarity, efficiency, or over-all perfection. Training will also sometimes be needed where the inherent urge is either absent or not so prominent, or else where there is an obstacle or a blockade in the growth. There may be a need to stimulate an interest or capacity which is not active, either because it is latent or absent. It may be used where there is mere laxity due to inertia or indifference.

A closer look at our educational methods reveals that they aim at providing some more or less adequate aids which are most of the time pertinent only to the aspect of training. But since they do not apply to the stage or aspect of culture, there is a constant artificiality in the atmosphere of the learning environment, and there is an undercurrent of psychological revolt on the part of the children.

In case of testing or examination this revolt all of a sudden switches into the opposite feeling of fear and oppression.

Alternation of negative inner movements deteriorates the learning process and

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affects the personality development to the point that the child declines into a status of inner crisis and permanent need for personality development.

In education for personality development this defect must be eliminated. For this two things are necessary.

First, the adult learning guide must recognize that education is primarily a happy process and that happiness is a fruit of the inherent urge to grow, unhampered by external factors and pressures. All educational processes must aim at achieving this happiness among the children. Hence all help, guidance and facilities should be provided towards this end. The right method of education has there-fore to be that of "culture", and all processes of training should gradually or rapidly be transformed into those of culture. However, where this transformation has still not taken place, the right time for the programme of "training" is when the student feels inwardly the need for clarity, precision or perfection, and when he is willing to impose upon himself an outer discipline for a short or long period (according to the needs in a given situation). In the long lasting absence of this inner will, there may be a need to impose outer discipline, we discussed it earlier, but this imposition should only be a temporary device, and the first aim should be to eliminate it gradually in order to reach the learning by culture as soon as possible again. In any case, the imposition of training from outside must not be arbitrary and should never be offensive to the sensitiveness and sensibility of the student. We do have to know that a child who does not come in learning action driven by curiosity or interest is a being in trouble, and discipline imposed will never cure the disease.

Secondly, education for personality development requires its own organization, and it may be convenient to envisage two closely interconnected organizations for "culture" and for "training", with a kind of flexibility so that the children can use these organizations easily according to the psychological needs of their growth.

All programmes of training should be conducted in what may be called "rooms for training", "laboratories", "perfection rooms". There could be such rooms or laboratories for each branch of knowledge. They might be organized in the following way. Each laboratory provides the student with the largest amount of information covering a branch of knowledge and a specialized guide to help him decide upon the method to use the available information.
There are alternative syllabi for the subject and an analysis of the various steps involved in the learning of the subject systematically and thoroughly, and an outlook on the different ways of preparing for these various steps.
The laboratories of training will further contain all the relevant material available in order to approach the subject in the most perfectible way. The use of the laboratories is based on selfdiscipline, individual decision and agreement between the child and the training guide as to what will be the exact amount of training to be reserved in particular circumstances.

The laboratories are also the right places where the student or child acquires the habit of selfevaluation and where he can meet the guide for selftesting purposes.

Unfortunately we cannot enter into detailed discussion of how the ideal learning environment can be organized, but at least we can point at possible organizational implications of education for the personality development. In the training area of the learning environment the child will be encouraged to work regularly, hard and develop the habits of punctuality and discipline. He will work according to fixed short or long programmes of work, to which he will stick rigorously since whatever form of laxity is an attitude coped with in the area of learning by culture.
The laboratories for training are suitable places to arrange lectures with learning guides or whoever is asked for by the students to come and illustrate the matter of study. The child brings into discussion his own progress reports in the laboratory of training, whenever he feels the need to compare his inner status of progress with the requirements of the training programme. It is mainly in these laboratories of training that the child acquires the habit of selfevaluation since it is here that he compares himself, his achievements, his knowledge, his skills, his growth with external points or frames of reference. It is here that the learner confronts himself with all possible activities in order to achieve clarity, precision, efficiency and selfmastery.

We may now suggest and discuss a few ideas for the organization of learning by culture or by spontaneous and natural growth. The area where this learning by culture takes place is the central area of the total learning environment, where all learning starts and where all results of training are integrated in the further process of growth.

I would like to point out that the two areas of learning or the two organizations pointed at do not necessarily limit themselves to the physical plane. They also become inner dimensions in the developing person. This is a very important aspect of it.

Every normally functioning child is apt to freely move about in the circumstances of learning by culture. He is driven by curiosity, interest and his inner urge for growth. In the learning environment he will develop his own diet of learning by culture according to his inner qualities, drives, energies etc.
In cultural work there is permanent stress on freedom, an ambiance of leisureness, on a natural rhythm of work, daily conversation, easy passage from one activity to another, fostering of interests and 'romance' of learning, warmth

of friendliness and free collaboration in work, joy of discovery and invention, deep and profound reflection, spontaneous meditation, creative expression, fun of exercise, free consultation and discussion, development of consciousness, growth of holistic way of thinking and acting.

In the environment of culture most of the elements of the environment of training have their place, but here the child tries them out on a basis of freedom and experimentation. In the environment of learning by training the elements of learning by culture should also be present, but there the stress will be on rigour, measure and mastery.

Adequate learning by culture is possible when sufficient inner and outside space is reserved for activities pertaining to it. Space or room for silence, for meditation, for consultation, for collaboration, for work organization, for bodily expression, for vocal, musical and all variations of artistic expression and experimentation.
Rooms for lecture, concentration, exhibitions of the results of work, storerooms for all the material one can possibly think of. Rooms for consultations of pressmaterial, for TV watching, for making telephone calls, for using audio visual material etc.

These rooms or spaces are not fixed in the physical environment, but are interchangeable, for multiple use, flexible. A learning environment where the aspect of culture puts individual children in the center of their own free interaction with all possibilities of learning becomes a very dynamic one, and stands no longer any possible comparison with the static learning environment pertaining to traditional schools, where children sit, listen and move only when the learning programme or the teacher allow them to.

On might be afraid that a learning environment containing these two aspects of learning by culture and by training will never function. On the contrary. Children who are freed from external pressure recover a natural sense of organization and equally natural attitude of calm. This cannot be communicated as a theoretical principle, but in practice both natural inclinations work and influence the all- over atmosphere of the learning environment.

Of course there should be enough room for energy spending activities, but I suppose that this is clearly understood.

With a number of general considerations I would like to end this address.

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It is necessary to point out that education for personality development cannot be imposed upon any one, who is not prepared to undergo the inner change necessitated by the requirements of education for personality development. This kind of education asks for a new type of learning guides who are not yet prepared in the teachers'academies at present.

Having assumed this basic assumption the following points may be suggested.

There will be no compulsion with regard to any subject of study. Any choice of a subject of study will be freely made by each child, his choice should reflect a real interest. This interest will be felt during a period of culture. At the beginning of any period of training the child will decide upon the lines of study he wants to follow or what topics he would like to explore. In exploring children will freely take the help of a learning guide. The learning guide, on his part, will endeavour to relate the child's exploration to the inner needs of the child. The learning guides will endeavour to widen and intensify the area of exploration so as to avoid narrow specialization merging into fragmentary thinking.
Children will come to the areas of training according to their own needs and after having freely decided to do so.
The child's programme of studies is flexible, supple and evolutionary. There will be no lecture classes fixed in advance. Arrangements may be made by learning guides and children or students together. Tests will be organized in the spirit of aiming at an attitude of selfevaluation of the child. This faculty of selfevaluation is a long process of selfdiscovery which will bring the child to the point of knowing exactly how he relates to the whole process of learning and to the point of developing full consciousness of the inner dimensions of his personality.
Quality of work supersedes quantity of work. There is a great stress on individual work.

THE RIGHTS OF CHILDREN IN HOSPITALS

W J C. Boelen-Vanderloo

Introduction

Nowadays, it is generally accepted that, for children who have to be hospitalized, special arrangements and facilities are necessary, in order to prevent the negative effects of a hospitalization on their maturation process.
The rights of hospitalized children are written down in charters, reports and recommendations by several national and international organizations. One would expect that the growing insight in the needs of children and the high demands that are made to medical care in the western world, have helped to realize the above mentioned rights in no time. Many children arrive in a hospital at least once in their life and to many of them, this is a traumatic event, which they never forget.
Unfortunately, the rights of hospitalized children are not respected and the desirable arrangements and facilities are not realized.
Therefore, it is absolutely necessary to pay attention to this subject.

Charters, recommendations, reports

It is striking that the above mentioned rights of children in hospital are formulated by several organizations on several times and in several places. This means that the awareness of the needs of a child in hospital surpasses the individual, local or typically national importance.
In 1959, England was the first country to make recommendations on a governmental level in the 'Platt report', which led to the foundation of the NAWCH, the National Association for the Welfare of Children in Hospital, a voluntary organization which strives for the execution of the recommendations.

In 1977, in Holland, measurements have been formulated at the foundation of the 'Landelijke Vereniging Kind & Ziekenhuis', a sister association of the NAWCH.
In 1980, the National Medical Board made recommendations in the report 'The hospital atmosphere for the 0 to 18-year old'.
At this moment, 11 European countries have their own association 'children in hospitals, which strive for the realization of the rights of the child in hospital. Among these associations, there is the NOBAB, which is an umbrella organization in the Scandinavian countries. In the USA & Canada, there is a very strong organization children and hospital, called the ACCH. Australia too has its own organization, called the AWCH.
Also at international level, the attention is focused on the situation of children in hospital. In 1986, the WHO published an investigation report, in which an image was set of the hospital situation for children in Europe. It was found that the situation is alarming. The WHO is also making recommendations

about desirable facilities. In 1986, the European Parliament adopted a resolution in which it was decided to draw up a European Charter about children in hospitals. The rights of children in hospitals were formulated in this document. The resolution has been adopted out of dissatisfaction with the present situation.
Characteristic of all these formulated rights is, that they are not imperative. The responsibility to carry out these rights hasn't been established anywhere. It seems that the child itself will have to stand up for its rights, or its parents, if not old enough yet.

The Rights of Children in Hospitals

On the basis of the above mentioned national & international charters, reports and recommendations, a number of basic rights of the child in a hospital can be formulated.

1. Children are only admitted to hospitals when a polyclinical treatment, day nursing or home care are impossible. The hospitalization has to be as short as possible.

2. Children are only hospitalized in a section which is reserved for their own age-group and are not nursed among grown-ups.

3. Children have a right for optimal medical care. This means that besides het paediatricians, also other medical staff have to posess an adequate practical knowledge and skill when treating children. Children should be protected against unnecessary investigations and actions, as well as against irrelevant medical and scientific tests.

4. Childran have the right to be with their parents or replacing nurses permanently, in order to stand by, to comfort and to nurse them in hospital. Inextricably bound up with this right is the creation of facilities for the parents in order to do so. Parents have a right to relief and guidance, accommodation and welcoming instead of only being tolerated. Children, also have to be seen as a part of a family. Brothers and sisters, but also friends, should be able to pay a visit.

5. Children and parents should be prepared and informed about the hospitalization and should be prepared for any event involving theirselves in the right way and on the right time.

6. Children should be able to play and to follow courses given by skilled pedagogical assistants and teachers.

7. There have to be adequate facilities for children, such as playrooms, classrooms, childfriendly and safe surroundings, parent accomodation. Children should be allowed to have their own clothes and things with them. Their privacy

is ensured.

8. Children should be nursed by a specially trained staff, which is aware of the mental and physical needs of children of different age-groups and of their parents. Children have a right to individual support and guidance, and this always by the same nurses and assistants.

From the large number of scientific investigations during the last decades, especially in the United States and Canada, on the hospital situation of children and their parents, it seems that the arrangements and facilities that come forth of these rights, help to diminish the consequences of hospitalization for children.

Surveys

It would be desirable if we could dispose of data about the actual hospital situation of children, nationally as well as internationally, so that it can be investigated to what extent the above mentioned rights of the child have been realized and what policy has to be followed. This wish is also formulated in the above mentioned resolution of the European Parliament.
The investigation of the WHO, which revealed the situation in 9 European countries by means of tests at random, shows that statistic data and national surveys are almost non-existing. It is known to us that in England, the NAWCH regularly takes stock of some facilities, such as visiting arrangements, parent participation and of the number of children who are not nursed in the children's section. During the 25 years since their formation, we have seen noticeable improvements, but still the situation is not what it should be. The Scandinavian countries dispose of surveys too, but the language barrier has made their accessability rather difficult.

Recently, a survey was carried out in Holland for the third time, which was executed in 1977 by the National Hospital Board and repeated in 1982 and 1987 by the national Organisation Children and Hospital. From the data which have been given by 95 % of the hospitals it seems that, during the last 10 years, a spectacular improvement has been established in the hospital situation for the 0 to 18-year old. Data have been collected about the parent participation, visiting arrangements, educational accommodation for parents, age limit for hospitalisation and about children who are not nursed in the children's section. In this investigation it is striking that, although parent facilities are present in more and more hospitals, people fail to use them. This discrepancy can be explained by the current attitude in the sections with respect to parent participation. Usually, parents are tolerated and facilities are only granted to those parents who demand them. Inviting and welcoming parents for the child's benefit is hardly ever done. This causes uncertainty with the parents and makes them leave their child in hospital on the advice of the section.
It was found that especially the attitude of medical assistants is deciding for

the actual optimal realisation of the coherent measurements and facilities.

Children in Hospitals between two Stools

It is striking that a continuous battle has to be fought in order to focus the attention of the people, responsible for the care of hospitalized children, on the seriousness of the hospital situation of children. The psycho-social damage a child can experience is either ignored, trivialized, accepted as being impossible, or made subordinate to optimal medical technical care.

The cause can be found in the qualities of the organisations, i.e. the members which play a part in the hospital situation.
The hospital itself is in the first place organisation-oriented and is characterized by severe hierarchical structures and complex communication, which doesn't stimulate the individual approach of the patient and for psycho-social innovations.

Doctors think in terms of diseases, and are organized according to their speciality, where the patient is reduced to the type of disease he's got. Children are not acknowledged as a specific age-group, except by the peadiatricians. They are not responsible for the psycho-social care in hospital, except for their own patients. Their professional associations hardly, investigate the children issue, unless there has been a branch-off in the proper professional group (i.e. children surgery).

In Europe, nurses have an essential, yet a weak position in hospital. Because of their low status and their non-universitary degree, changes of opinion and insight can only be realized on a small scale. Nurses are hardly organized as a professional group. In a hospital, psychologists and social assistants depend on the number of doctors. With these people, the disturbances, as a consequence of the disease or not, are centrally placed. They don't regard the co-determination of general facilities in hospital as their task yet, not by themselves, nor by other medical assistants. Pedagogical assistants themselves fall between two stools in the social structure of the hospital. This leaves us with the patient himself. Especially in Holland, the responsibility of the patient, at least socially speaking, has progressed a lot in the last few years. Patient organizations have joined themselves in a patient platform, in order to influence national consultation in medical care.
Juridically speaking, the rights of the patient have only been constructively discussed and thought of during the last decades. Because of the problem of the grown-up patient, one hasn't come further than regarding the legal position of the child and its parents in the adolescent phase. 'Child and Hospital' organizations can be regarded as patient organizations, although they don't labour for patients with a specific disease, but labour for the general and total interest of a specific age-group in medical care. They are organizations which take up an independant position of above mentioned professional groups, and which try to influence the policy on every level.

Even though everyone says that they look after the interests of the child, especially above mentioned organizations manage to change the hospital situation for children and their parents at this moment with some result, by means of publicity, action programmes and seminars. Very often, local work groups play a direct role in the transformation process in hospitals.

In every country, the government will eventually have to take up responsibility for the application of the rights of children in hospital and will have to implement the recommendations in laws and rules. In view of the big differences between the hospital situations in the European countries, international cooperation will be obvious, even if it were only to prove that the rights of children are realizable indeed (e.g. 24 h. access for parents, parent furlough).

Conclusion

It is necessary to demand attention for the situation of hospitalized children, because, in spite of the large amount of scientific knowledge about desirable arrangements and the large amount of recommendations and reports about the rights of the hospitalized child, the present situation of children in hospital is alarming. The rights of the child are not imperative anywhere, the responsibility for their application lies with the child itself, in this case its parents. The government, hospitals and professional assistants don't pay enough attention to the issue 'children in hospitals'. Organizations for children in hospitals seem to play an important role in the realization of an optimal situation for the child in a hospital.
It is of vital importance that there comes a change in attitude with respect to the quality of the medical technical health care in our society. Children are cured, but are they also better off ?

THE RIGHT OF COMPLAINT FOR MINORS IN DUTCH STATE INSTITUTIONS

Annelies Van Vliet

I. Introduction

At the time of the so-called 'Kinderwetten' (= child welfare laws), which were introduced in 1901, the basic assumption was, that children differed totally from adults and that they above all needed protection. Nowadays, another idea is - fortunately - gaining more and more ground, viz. that children are also persons, with their own rights and duties. In 1971 the report of the Wiarda-Commission was published. It related to a revision of the child protection right [1] and expressed under the title 'From youth protection to youth rights' the changed points of view :

"A child's abilities are heavily underestimated by an all too important stress on the young person's protection until he has reached the age of majority. An over-protection (as well in terms of intensity as of duration) does not or barely stimulate the growth of the young individual. This exaggerated attention to protection has damaged the opinion, that a minor has also his own rights, which he is supposed to learn to exercise independently. The commission prefers this process of autonomy to an attitude of protection towards the minor. The security and certainty, which are achieved through protection, prove to be less safe in practice than the independence gained by asserting oneself" [2].

More and more attention was given to the legal position of minors. One of the consequences was the introduction in 1982 of a formally, statutory, right of complaint for minors in state institutions [3]. following the comparable right for prisoners, which has existed since 1976 [4]. Unfortunately, this right is not yet adapted in over a hundred private child protection institutions (as a way of comparison : there are only eight state institutions !). Given the reigning uncertainty about a future application of such a right, I will confine myself in the following to an evaluation of the existing right of complaint in state institutions (notwithstanding the government having presented a preliminary bill concerning the assistance to minors [5] and the existence of other - controversial proposals).

2. Commission of Supervision

An independent commission of supervision is assigned to each state institution; it consists of at least six and at most of eleven members. On the basis of the implementing Order concerning Child Protection, at least one of the members entrusted with jurisdiction is a member of the judiciary, and other members are preferably a social worker, a behavioural scientist and a lawyer [6]. The composition of the commission should be as broad as possible. They are charged with the supervision over the treatment of the minors and over the compliance with the regulations; they have also a function of consultant to the proper minister (i.e. the Justice Minister) and to the institution's director. The commission members have access to the institution at any time, they should receive any information they request, and should be granted inspection of any document and they can contact the minors. Especially in consideration of the latter demand, the commission's members will be appointed by turns to be commissioner for a month. He will give consultations in the institution twice a month. The residents will be able to express to him their wishes and complaints. The commissioner can then act as an arbitrator. Many problems can be solved in this way before a formal complaint is lodged (cf. 3). In other words, this informal possibility to air one's grievance existed already before the legal right of complaint was introduced. It is obvious that a month commissioner should not trifle with this task and that he should make sufficient time for those who have something on their minds [7].

3. Legal settlement of the right of complaint

The right of complaint is settled in the articles a to m of the law of principles for child protection. As we already mentioned, it only concerns minors in state institutions, as no commissions of supervision are assigned to the private institutions. And it is these commissions which are crucial in the application of the present right of complaint.

3.1. Instance of complaint

A distinction is made between complaints of a simple nature on the one hand and complaints of a complex nature on the other hand. Simple complaints can be dealt with by the president of the commission of supervision or by any other member, appointed by him (henceforth I will only talk of the president). If he considers the complaint to be complex, he will commit the case to the commission of complaint, which is made up of three members of the commission of supervision. This commission's president, who is entrusted with jurisdiction is preferably a member of the judiciary [8]. This should not be a surprise, as the commission of complaint has a judiciary function. More surprising, however, is that the president of the commission of supervision - who deals with the simple cases - is not expected to fulfil this requirement [9].
As well the minor as the director can appeal against a decision of the president to the commission of complaint. If the appeal, however, concerns a decision of the commission of complaint of first instance, i.e. regarding a complaint of complex nature, the minor or the director should apply to the Board of Recommendation for Child Protection, and advisory council to the minister. This board can charge a commission of three of its members with the appeal. Also, the president of this commission is preferably a member of the judiciary entrusted with jurisdiction. Moreover, a complex arrangement has been provided in case the commission of complaint should decide in a case of appeal that the complaint is really one of a complex nature. In that case, the commission can still make a decision in first instance, as if the president had

committed the case to them. Consequently, higher appeal can then be made to the Board of Recommendation. If such a case is presented (which has not yet occured up untill now), there are actually three instances, unlike in other cases, where only two instances are possible. This might lead to inequality of justice. A criterion concerning the nature of a complaint has not been defined in the law. The memory in reply does not provide an adequate solution in this respect : "... in cases of simple nature the facts and circumstances which are relevant to the complaint ... should be clear to such an extent that the president ... can reach a sound decision. Also should be considered the cases in which there is a direct link between the decision or treatment the minor complains about and the 'rules in writing' as they are applied in the institution proper" [10].

3.2. Procedure

A complaint should be lodged in writing with the commission of supervision. The term appropriate to do this, has been fixed at seven days after the person involved has taken notice of the decision he wishes to complain about, or as soon as reasonably can be expected. The president who handles the case can, as long as the decision has not yet been taken, suggest to adjourn the execution of the decision creating the complaint. If possible, the director can put the decision into effect. If he does not, he should give account of his behaviour within 24 hours. The president hears the director and the minor and takes a decision within five days. If he declares the complaint well-founded (cf. 3.3), he invites the director to reconsider his decision; if the latter does not agree, he can still enter an appeal. A complex complaint is committed to the commission of complaint. They hear in any case the director and the minor, but they can also make inquiries with other persons. The minor can summon the assistance of a councillor; the latter need not to be a lawyer, but could be anyone the person involved has put his trust on. The president of the commission can also appoint a councillor; it need not be the minor who takes the initiative. The commission of complaint has two weeks time to reach a decision. If the complaint is judged well-founded, the director can be invited to reconsider the decision which originated the complaint. In this case the director is supposed to do so, unless he appeals. If the decision can not be reconsidered any more, the commission can make a compensatory proposal. This alternative has not been laid down in the laws and neither is the director legally bound to comply. It is, however, remarkable that the law does not mention the possibilities of assistance by a councillor or the appointment of a councillor, the possibilities to hear people other than the director and the minor or the possibility to make a compensatory proposal in simple cases. The underlying idea is, that simple cases should be dealt with as quickly and as uncomplicated as possible. For that matter, the law does not forbid these procedures either. An appeal should be lodged within seven days at most after the decision by the commission of complaint or by the president, or as soon as reasonably can be expected (this only true for the minor). The same goes for the professional procedure in the commission of complaint. Also, the appeal to the board of recommendation (for decisions taken in first instance by the commission of complaint is by and large arranged as the above described procedure in first instance : the director and the minor are heard and, if necessary, other persons as well; the assistance by a councillor is possible and a councillor can also be appointed; if the complaint is considered well-founded the director is invited to reconsider the decision and as there is no more possibility to appeal the director will have to comply; a compensatory proposal can be made when the decision is irrevocable. The board is not bound by a term in which sentence should be pronounced).

3.3. Reasons to complain

There are two possible reasons to make complaints :

* a decision taken by the director (or in his name) and which concerns the minor personally ;

* a decision which differs from the rights the minor can derive from the rules which apply in the state institution.

A decision by a member of the personnel is supposed to be taken on the part of the director, unless it turns out otherwise. This phrase has been added in the law at the urgency of the Upper Chamber, as in actual practice the minor deals more with the personnel (and more particularly, with the group leaders) than with the director. Complaints can also be made about the conduct of members of the personnel when the director (afterwards) takes up the responsibility. The rights of the minor, in other words his material legal position, are not always very clearly defined. Sources in this field are among other things the Statement of Principles for Child Protection, the Implementing Order Child Protection, the Regulation of Legal Position [11] and the House Regulations of the institution. Moreover, the Constitution and the Treaties of Human Rights matter. Furthermore, ministerial circulars are important.
When the instance concerned is of the opinion that there is no real legal reason to complain, e.g. when the director does not take up his responsibility, or if it is a matter of an individualised decision, or no right has been transgressed, then the verdict is not admissable. The same is true if the term to appeal has been exceeded.
If the complaint is declared admissable, the following question comes up for discussion : is the complaint, as regards content, founded or not ? The law does not give criteria in the respect, but in the Explanatory Memory it is stated : "In any case the checking instance will have to find an answer to the question if the director's decision is acceptable from the point of view of fairness and equity, all circumstances taken in account and considering the regulations which apply in the institution" [12]. In other words, this is a marginal examination. If the complaint is founded (cf. above), the director is invited to reconsider his decision; if this is not possible anymore, a compensatory proposal can be made by the commission of complaint and by the Board of

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Recommendation (cf. 3.2). This is especially true of extra facilities for recreation, of receiving visitors or of weekend leave. A right of compensation does not exist.

4. Practice of the right of complaint

It is over three years and a half since the right of complaint has been introduced. That is why it is interesting to look at the practical experiences and problems.

In 1986 a first - small - evaluation survey was made at the request of the Ministry of Justice. The resulting report was published in July of 1987 [13]. One of the findings is that the knowledge of the right of complaint is scarce with personnel as well as with pupils. This is an important conclusion, as it is of no great use to have rights without even knowing it. Apparently, the information is insufficient. Many pupils assert that they have never seen the existing leaflet and of those who have seen it, many thought it incomprehensible. At the moment, a new leaflet is being produced. The observation that the personnel is not well informed also leads to concern, since the members of the personnel can not possibly be of assistance or they can not give information. The personnel also stated often not to know the result of a case of complaint, unless asked for it themselves. According to the personnel, the introduction of the right of complaint has brought only minor changes in the way of working in the institution. But more attention is being paid to statements when going about with minors. The evaluation further on showed that the commission of supervision should make themselves more known. From some sides, decisions in cases of complaint were criticized : it was said that the legal aspect is stressed more than the pedagogical (cf. 4.3.).

When it comes to the insufficient information, also the commissions of supervision should be concerned. This is, of course, also true of the inadequate characterizing. As it turns out in practice, the personnel as well as the pwpils are hardly aware of the existence of a commission of supervision and of its task. Finally, the month commissioner does not often take his job seriously.

The fear that existed originally when the right of complaint was introduced (the same fear also arose when the right of complaint for prisoners was introduced), namely that working in the institution and the relationship between personnel and pupils would be disturbed, has turned out to be unfounded. The opinion that statements can affect future conduct seems to be positive : in this way the right of complaint does not only work in a concrete case, but can also sort out an effect on the long term. Although the right of complaint was originally intended to be of an individual character, other people can also benefit from it. This might be particularly positive in cases where a fundamental decision is given. In this respect, it is regrettable that up untill now so little cases have been brought before the Board of Recommendation. As this is a national instance, this could well contribute to the jurisdiction. Many cases, however, are dealt with in first instance by the president, as if they were of simple nature. If it comes to a professional case the instance concerned is the commission of complaint and not the Board of Recommendation.

4.1. Simple or complex

As there is no clear criterion in order to determine whether a complaint is of simple nature or not, practice has shown that presidents prove to judge quite differently. Some presidents consider most complaints simple ; others tend to refer to the commission of complaints. Delfos [14] considers it to be unjustifiable that cases, in which there are doubts about the nature, can be decided on in three instances (cf. 3.1), while cases which are classified from the beginning as complex can only come up for discussion in two instances. I agree with this opinion. Unfortunately and as far as I know, the Board of Recommendation has not yet pronounced upon the question 'simple or complex'. It seems to me, that it is advisable for the president to refer dubious cases to the commission of complaints.

Moreover, I would not qualify as simple a complaint concerning a decision of radical nature (e.g. to suspend a leave) or concerning an act of violence by the personnel.

4.2. Admissability

A complaint is pronounced inadmissable when it is not founded on one of the legal reasons to complain or when the term has been exceeded. The latter will not arise very easily, also because the law has included the let-out "... still admissable, when appears that the minor has made a complaint as soon as can be reasonably expected". In the actual practice of the right of complaint for prisoners, only a small number of complaints turn out to be inadmissable for exceeding the alloted term. Up untill now, I have not yet found any reason which might indicate another evolution with the right to complain for minors. The situtation is, however, different with the inadmissability for the absence of a reason to complain : a decision taken by or on the part of the director, aimed at the minor personally or a decision which deviates from the rights the minor can derive from the regulations which apply in the state institution.

4.2.1. By or on the part of the director

Also with regard to this matter, the statements are not (yet) consistent. If the director himself has taken the decision, there is no problem whatsoever. The same goes for the case in which the director afterwards takes up the responsibility for a decision taken by a member of the personnel. Strictly speaking, there should not be a problem either when the director dissociates himself or the decision; this should entail the inadmissability of the complaint. In practice it is sometimes different. An example is given by Hermans

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[15]. who mentions a complaint against the decision of a group leader who refused to serve coffee for the person involved. This complaint was declared admissable, but unfounded [16]. Inadmissability would have been more logical, as the decision could not be referred back to the director. Such complaints are better relegated to the month commissioner. Two complaints about a group leader who showed an annoying tendency to argue and who -according to the complainants - always wanted to be in the right were found admissable. The director had stated that the attitude of the group leader was perfectly normal, by which the 'decision' could apparently be referred back to the director [17]. According to me, this complaint should also have been relegated to the month commissioner. Two complaints about the use of pocket torches by the night guards, which repeatedly disturbed the complainants' night's rest, were pronounced inadmissable, as the vice-director did not agree with this conduct [18]. Two other complaints related to a female group leader who refused to put another TV-channel on. These were found admissable, because the female complainants could reasonably make the assumption that the decision was taken by or on the part of the director, as is the case with nearly all the decisions of the group leaders. The vice-director had stated that a weekly composed list of the compulsory TV-programmes should be strictly followed. That list included the programme that was requested (and refused). The vice-director distanced herself from the refusal by the group leader [19]. Although I am in favour of a broad interpretation of the reasons for admissability, I am of the opinion that this decision is not consistent with the law, since the vice-director explicitly did not agree with the conduct of the group leaders. According to me, it can not be said either that the minor's freedom is curtailed, since he is put in the right by the management. But I must admit that any further complaints about the same matter, in the same institution could well be admissable. For then the managements could be reproached that they have not restored order.

Drewes puts the question if a decision of a vice-director should not automatically be considered as a decision on the part of the director [20]. I agree with this point of view and broaden this solution to decisions of all acting members of the management ; this could also refer to the head leaders.
Complaints often refer to violence used by the personnel. In those cases the director will also have to notify if he takes responsibility for it. If not, he is expected to take action in order to prevent that situation to occur again.

4.2.2. Decision concerning the minor personally

As the right to complain is individual, the minor can only lodge a complaint against something which concerns him personally. Sometimes, complaints are filed about the treatment of group members; these complaints will be found inadmissable. The commission of supervision does have a function to look into this sort of complaints, which might indicate a mistreatment of the pupils. Through the month commissioner this problem can be tackled. At the same time, one should not forget that pupils can also turn to the management with their complaints about the group leaders. Complaints about the food in general are not admissable either, as these do not refer to a decision which concerns the minor personally.

4.2.3. Decision deviating from the rights

This principle is laid down in the law because the discussion in the Upper Chamber pointed out that there was some uncertainty about the possibility to file complaint against a collective measure. For such a measure is not aimed at the minor personally. Thanks to this assignment, it is clear now that a complaint concerning a collective measure can be admissable, more particularly when the complainant's rights in the institution are infringed on [21]. This does have its importance, since it often occurs that a whole group is sent to their room on pedagogical grounds. Several judgements point out the importance of the complainant's taking part or not in the unruly behaviour which led to the collective measure. In other words : a certain extent of guilt in the situation should be proven with the person involved. If this can not be determined, the complaint will be considered founced (cf. 4.3.) [22]. Some recent complaints about the late beginning of the club-evenings in the institution were pronounced inadmissable since it did not concern either a decision aimed at each one individually or a decision deviating from a right. There were no strict starting times for the club-evenings. The clarification given by the complainants did provide a pointer for the degree of information dissemination : "The complainant gives an explanation to her complaint and states that it was not so much her intention to file an actual complaint than that her group, the blue group, would have like to discuss the problems of a club-evening. The group did not know the proper way to contact the management and the month commissioner and that is why they asked for a complaints form" [23].

4.3. Well-founded or unfounded complaint

A complaint is considered well-founded when it was not reasonably possible to accept the decision which originated the complaint. It is obvious that this is not always easy to determine. Since it concerns only a marginal examination, the acting instance can pronounce a complaint unfounded, just because they would have taken another decision in the director's place. They can only check whether the limits of fairness have not been exceeded. In the case of collective measures these limits have been transgressed when the complainant is in no way to be blamed for the group's conduct. The individual right outweighs the collective pedagogical interest then; this, at least, can be deduced from some judgements. However, one pronouncement also assesses the importance of order and security in the institution more important than the impossibility to prove the complainant's participation [24].

The Board of Recommendation has given a fundamental decision concerning the question whether pedagogical considerations should be put before juridical ones. The Board is of the opinion that this should not be the case. One complaint was related to a non-granted leave, although the complainant was principly entitled to it. The director judged that the leave could not be spent in a sensible way. The Board considered the motives to refuse the right of leave too weak. They derived from the director's declarations during the session that the actual reason to refuse the leave was, that this would have disturbed the complainant's treatment. According to the professional commission, however, there was no ground to deviate from the right of leave, "no matter how reasonable the decision may seem from a pedagogical viewpoint" [25]. This seems to me a correct decision.

In other sectors there are similar problems; just think of the principle 'for one's own benefit' versus the right to self-determination in psychiatric settings. As the present regulation of complaints aims at protecting the legal position of minors in institutions, juridical arguments should, according to me, be the deciding factor in the decision. This does not mean, however, that pedagogical arguments are not to be taken into consideration.

A complaint about a systematic refusal by the management to give the residents sufficient airing referred to force majeure, given the poor accomodation and personal circumstances. On the basis of the Regulations of the Legal Position the occupants are entitled to a one hour's time in the open air. In real terms, the residents of the institution concerned were only granted three quarters of an hour, and sometimes even less. The director expressed his willingness to give ten minutes of compensation for the one occasion the airing time was extremely short, in order to come to the 'normal' three quarters of an hour. The president of the commission of supervision considered that they dealt with such a fundamental right of detained minors that the director could not plead a force majeure as an excuse that the willingness to grant a compensation of ten minutes airing was insufficient. I can agree to this pronouncement. A fundamental infringement on a right can not be justified.

When a complaint is lodged about a measure against conduct of which the complainant did not know and could not know either that it was forbidden, the complaint is pronounced founded. That was e.g. the case with somebody who had himself tattooed. For that reason his leave had been suspended. Since it could not be determined whether the complainant was or could be well informed about the injunction to tattoo and given the fact that such a ban is not so obvious either, the complaint was pronounced well-founded [26]. Another judgement concerned an article of clothing, which was returned shrank from the laundry. The complainant had not received any damages. He argued he had never been told that the institution did not assume responsibility for the consequences of washing private clothes. The director considered likely that that announcement had not been made. The complaint was pronounced well-founded and the director was invited to reconsider his decision (concerning payment of the damages) [27]. The reigning regulations and standards must be knowable to the parties concerned (the so-called principle of lex certa, which is also known in criminal law as the aspect of the principle of legality). Customary law can also play a part. When a certain behaviour has been tolerated during a given period of time, e.g. smoking before breakfast or not eating bread-crusts, customary law has come into being. Any measures which infringe on this law are liable to complaints. In either case the complaint was pronounced well-founded [28]. Decisions should be taken meticulously. Several judgements in the law of complaint for detainees indicate the importance of this principle of meticulousness [29]. In the law of complaints for minors, this claim also implicitly comes up for discussion.

A promise for leave should always be kept. A complainant had been promised a month's guided leave. But as the institution was badly understaffed at the time, the leave was eventually not granted. The professional commission in the Board of Recommendation stated that the personnel situation had not proved to have changed in the time between the promise and the refusal. In other words, this was not a matter of an acute situation of force majeure. Other potential reasons to change priorities had not come up either. In that case, the decision to cancel the arrangement should have been talked about in advance with the person involved, which had not been the case. The complainant could have made the assumption that he was allowed to leave [30].

Recently a complaint was lodged concerning a decision of an acting member of the management, who had forbidden the complainant to participate in a group outing, although the group leaders had allowed him to do so. This case was rather obscure, and neither the complainant or the group leaders were certain what sanction was going to be imposed for not participating in a table-tennis tournament. The complainant supposed he was not allowed swimming that particular week-end (this sanction had effectively been imposed on him), but he had not understood that he was going to be forbidden to go out the next Monday. Moreover, this trip was one to a swimming-pool, which complicated matters even more. And apparently the group leaders had not understood the decision either and had allowed the complainant to go with the group to the swimming-pool. The president of the commission of supervision was of the opinion that the complainant could have supposed that he could participate in the event and he thought that the decision to refuse could not have been taken in fairness [31]. Here the principle of meticulousness plays also a part. A fundamental question which arises here is, to what extent promises by group leaders can make different decisions of the management unreasonable. It seems to me that it is up to the management to clearly outline the policy of the institute and to take care that the personnel strictly adhere to these instructions. The rules should also be clear to the minors. When the management deviates from arragements made by members of the personnel, they will have to justify this in no uncertain terms. Sometimes group leaders resort to force. Unfortunately and as far as I know, no instructions are available yet concerning acts of violence. This complicates the matter, especially when it comes down to determine whether a complaint is well-founded or not. Sometimes violence is used when somebody is sent to his room and then refuses to go. In order to get him there, he will have to be grabbed. The more resistance is offered then, the rougher the going will get. A plaint included three complaints : the stay in the own room, the violence that was used during the removal to the room and the duration of the stay in the room. The first complaint was pronounced well-founded, as the complainant had not taken part in the behaviour that had led to the measure (cf. 4.2.3.). As to the second complaint, it was decided that the decision was not so unreasonable as for the complainant to refuse to go to his room, even if that decision was unjustified. In other words, the use of violence was entirely due to his behaviour and moreover no inadmissable offence had been committed. Because of his refusal to leave and to the resistance offered, the third complaint was not either admissable [32]. According to article 4 of the Regulations of the Legal Position "the inhabitant is obliged to comply with the instructions, given to him by or on part of the director". This article plays a role in other judgements too. The complainant has to blame himself for the use of violence if he does not do what is asked of him [33]. One could ask, of course, just how far one can go. In this way, unjustified measures would be justified and taken by means of violence. I can well imagine that in some situations an obviously unreasonable decision is not accepted. In that case a strong self-control is called for in order to reconcile oneself to the facts. Under these circumstances, resistance does not seem unreasonable at all times, whereas the use of violence could well be unfair.

Only in extreme cases one should resort to violence. Attention should be paid to principles of proportionality and subsidiarity. There is always a danger of escalation, and especially if it involves violence. Obviously, in some cases there is no other solution. Young people in state institutions do not exactly belong to the easiest accessible category; one should never lose sight of this. But neither should this argument be an easy excuse; even problem minors are entitled to a fair deal.

4.4. Compensation

Up untill now I have got the impression that only seldom compensation is given. In the decision whether or not to grant compensation, non-juridical considerations also play a part. A complaint about the duration of the stay in one's room was pronounced founded, because the duration did not bear a proper proportion to the seriousness of the complainant's behaviour. It was stated that, for that reason, compensation could be considered, but the commission of complaints abandoned such a proposition because this could have damaged the atmosphere in the group [34]. In a pronouncement by the professional commission of the Board of Recommendation (already mentioned above) about the poor motives for a deviation of the right for leave on pedagogical grounds, it was pointed out that the magistrate in a juvenile court objected to the granting of the leave, in which case one was entitled to deviate from the right. They conclude: "Since the professional commission does not hold improbable that the acting magistrate of the juvenile court would have objected against the granting of the requested leave if the matter had been brought before him or her, the professional commission will not make a proposition in order to grant compensation" [35]. This seems to me a rather peculiar consideration. As this is a case in which a fairly fundamental right has been violated, compensation (in the form of leave) would have been quite appropriate. A complainant who is proven right in this way, will still be left with an important feeling of dissatisfaction, as it would seem to me.

5. Conclusion

First of all, I would like to point out that I consider the right to complain to be a positive acquisition, even if some imperfections still remain. The right can certainly contribute to a better legal position for minors in the state institutes. Let us just hope that private institutions will not lag behind too long before adopting an - adequate - arrangement for complaints also. But it is important to improve information dissemination. Apart from that, one should not forget that 'trifling matters' can cause quite some dissatisfaction in an institute.

The fear that the right to complain might have a polarizing effect and to play the personnel off against the pupils does not seem to be founded. A pronouncement could well make things clear to all parties involved (provided they are informed about the judgement !).

The month commissioner is an important official. He can give a satisfying solution to many problems, acting as an arbitrator in a dispute, and thus avoiding the conflict leading to a formal complaint. That is why it is important that minors know the institute and their office hours. Also the personnel should be informed. Furthermore, it is desirable that the month commissioner is well aware of the importance of his task and special attention should be given to the risk that a month commissioner persuades an aggrieved party not to lodge a formal complaint ! But many more trifle matters should be handled by the month commissioner.

Up untill now, only very rarely a councillor was appealed to. I only know of one particular case. The presidents of the commissions of complaints should take advantage of their right to appoint a councillor, and particularly so in complex cases.

When complaints relate to far-reaching measures, such as suspending leaves, or when violence is used, they should be considered as complaints of a complex nature. In this way, the odds are that the Board of Recommendation can pronounce, which has happened far too rarely. It would help uniformity in jurisdiction. This is especially important when we are dealing with fundamental matters.

The right to complain is a juridical affair, which involves the rights of the residents. It goes without saying that pedagogical measures should not infringe on those rights, as was determined by the professional commission of the Board of Recommendation.

The right to complain can have a preventive effect, if for no other reason than its mere existence. The management and the personnel will tend to consider more their decisions beforehand. This can help the meticulousness with which those

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decisions are taken. Moreover, wise pronouncements also have their effects in future cases.

From some cases we can reach the conclusion that the instructions given to the personnel are not always clear and unambiguous. It is positive if this can be demonstrated in such a suit. Two sorts of discrepancies can arise between the personnel and the management : the personnel can make promises which are taken back by the management and the personnel can take a decision, which causes complaints and which the management turns out not to agree on. In the former case the demand for meticulousness entails that the management accounts for their change of policy; in the latter case the complaint is, according to me, unfounded. In either case, order should be restored internally.

As for the use of force and violence by the personnel, standards need to be laid down. An instruction on the use of violence could be helpful. Of course, the basic assumption should be that the personnel does not resort to violence, except when it is the only possibility and then only to an extent which still might be considered reasonable. In other words, the principles of subsidiarity and proportionality should be observed.

Although the Board of Recommendation has not yet been able to pass sentence in many cases, some decisions can well be considered fundamental, such as the pronouncement that promises should be kept, that a deviation from a right should be duly justified and that juridical motives prevail over pedagogical ones. It would be profitable when the Board was also given the chance to give an answer to the question whether a complaint is simple of nature or not. If this is more clearly defined it will not often be necessary to proceed to the curious situation that, if the commission of complaints decides on appeal that the complaint was not simple and therefore deals with the case in first instance, yet another instance can be called upon if another appeal is entered. This could lead to inequality of justice. Up untill now, no such case has presented itself. Another fundamental question is, to what extent the management can deviate from arrangements, made by the personnel and to what extent complaints can be admissable, even if the management dissociates itself from a decision taken by the personnel. I have already given my opinion about this matter, but it would be desirable if the Board made some pronouncements concerning this problem, given the inconsistency of the jurisdiction of complaints in this field.

Inadmissability and unfoundedness are sometimes confused in practice. This is perhaps due to the fact that the president of the commission of supervision need not to be a lawyer. It might therefore be desirable to appoint in those cases for the consideration of simple complaints another member with a more juridical knowledge.

Sometimes the instance that handles the complaint gives an extra consideration. In this way they can still state how they feel about the decision, even if the complaint has been held unfounded because of lack of evidence to prove the decision was taken reasonableness. I do not disagree with this procedure, and more particularly in cases where the conduct can only hardly be tolerated. In this way, an indication can be given as to a future decision in a similar case.

According to me, too little compensation is given. It would help the legal position of the residents when this would happen more often.

Finally I can't help saying that the fact that the residents are often problem people does not automatically justify a repressive conduct. After all, they are in the institution due to i.a. their difficult character. This is already a 'punishment' on its own. No additional punishment should be imposed, unless this is really necessary. This, however, calls for competent personnel, which should be selected accordingly.

I close this paper with a remark which has been made earlier : even problem people have rights and these should be duly protected.

Notes

1. Child Protection Right. Report from the commission of revision of the child protection right (president J. Wiarda). Staatsuitgeverij 's Gravenhage, 1971.

2. Ibidem, p. 58.

3. Law from 6 May 1982, Staatsblad 273. Became effective 1 April 1984.

4. Law from 21 October 1976, Staatsblad 568. Became effective 23 May 1977.

5. Draft for law, concerning regulations on youth assistance (Law on Youth Assistance). Mentioned in 'Nederlandse Staatscourant', nr. 30, 10/7/1987. The Draft has been included in 'Nieuw Jeugdrecht', edited by G. Delfos and others, 's Gravenhage. Loose-leaf, cf. D.V., pp. 1-79.

6. Precision : when I use the masculin form, also the feminine form is meant; this is done for readability's sake.

7. Composition and function of the commission of supervision are determined in the articles 150-157 and the Implementing Order Child Protection.

8. Cf. art. 157 Implementing Order Child Protection.

9. As to composition and functions of the Board of Recommendation for Child Protection, please consult art. 2 Law of principles for Child Protection and art. 1-12 Implementing Order.

10. Lower Chambern, session 1980-1981, 15 713, nr. 6, p. 5.

11. Regulations concerning legal position of those who are admitted in state institutions for child protection. Order by the State Secretary of Justice on 28 March 1984, nr. 198/784. Included in : "Kinderrecht. Wettelijke regelingen en voorschriften met betrekking tot het kinderrecht en de kinderbescherming". Vuga, 's Gravenhage, Loose-leaf, cf. Volume I, F VII, pp. 14-25.

12. Lower Chamber, session 1980-1981, 15 713, nr. 1-4, p.6.

13. Kooij, J.F., and E.M. van Lierbergen, "Evaluatie Klachtrecht Minderjarigen", Bosch en Duin / Amstelveen 1987.

14. Delfos, G., "Het klachtrecht bij de rijksinrichtingen voor kinderbescherming", in "Tijdschrift voor familie- en jeugdrecht", 1985, pp. 27-34.

15. Hermans, H.E.G.M., "Het klachtrecht van minderjarigen in rijksinrichtingen", in "Straffen in gerechtigheid. Opstellen over sancties en executies", published in memory of prof. mr. W.H.A. Jonkers. Gouda Quint bv, Arnhem 1987, pp. 257-267; idbidem, p. 261.

16. President of commission of supervision 'Den Hey-Acker', 11-2-1985.

17. President of commission of supervision 'Den Hey-Acker', 13-2-1987.

18. President of commission of supervision 'Eikenstein - De Lindenhorst', 12-5-1987, published in 'Penitentiaire Informatie' (henceforth called PI), 1987, 82.

19. President of the commission of supervision 'Eikenstein - De Lindenhorst', 6-5-1987, published in PI 1987, 83.

20. Drewes, H.M.A., Column Child Right and Child Protection, in "Delikt en Delinkwent" 1986, pp. 301-304, ibidem, p. 303.

21. Lower Chamber, session 1980-1981, 15 713, nr. 6, pp. 6-7.

22. cf. commission of complaint 'Kralingen', 11-5-1984, PI 1985, 14; commission of complaint 'Kralingen' 5-3-1987; president commission of supervision 'Op de Berg' 7-5-1987; commission of complaint 'Op de Berg' 17-8-1987; president commission of supervision 'Eikenstein - De Lindenhorst' 29-9-1987.

23. Three pronouncements by the president of the commission of supervision 'Eikenstein - De Lindenhorst' 8-9-1987.

24. President commission of supervision 'Op de Berg' 8-8-1987; cf. also note 22.

25. Professional commission Board of Recommendation for Child Protection 13-2-1986, PI 1986, 44.

26. Commission of complaint 'Overberg' 28-5-1984, PI 1985, 15.

27. President of commission of supervision 'Eikenstein - De Lindenhorst' 11-8-1987.

28. President of commission of supervision 'Eikenstein - De Linderhorst' 28-11-1985; member commission of supervision 'Kralingen' 24-7-1987.

29. Kelk, C., "Kort begrip van het detentierecht". Ars Aequi Libri, Nijmegen 1983, bv. pp. 120-122.

30. Professional commission of Board of Recommendation for Child Protection 5-6-1985, PI 1985, 61.

31. President commission of supervision 'Overberg' 13-10-1987. P.S. Meanwhile the commission of complaint has decided in appeal of the director, that the complaint was not of simple nature and has decided in first instance that the complaint was well-founded.

32. Commission of complaints 'Kralingen' 5-3-1987.

33. Member of commission of supervision 'Kralingen' 24-7-1987.

34. Commission of complaint 'Kralingen', 5-3-1987.

35. Professional commission Board of Recommendation for Child Protection 13-2-1986, PI 1986, 44.

Part III :

Conclusions

CHILDREN'S RIGHTS

Prof. Dr. Miek De Langen

In the first place, as the last guest to speak at this congress, I would like to thank the organizers for their initiative and for all the work they have done, and the faculty and the whole university of Ghent for the opportunity they have provided us all with to exchange ideas and learn from each other's views on and experiences with such an interesting subject as ombudswork for children .

In the second place, I would like to thank the organizers of this congress for their trust in me. Instead of professor Gerda de Bock I have the honour to conclude this congress with an attempt to come to a synthesis and, if possible, to present you with a perspective on the future. The fact this faculty of Ghent university does not discourage deviations from the well-trodden paths, and particularly their tradition of critical approach towards child justice and protection, has made me overcome any initial hesitations, so that I feel quite at home now.

It will be clear to everyone that the honour is not without its drawbacks, since it also implies a very difficult task. The overwhelming amount of material, knowledge and experience that has been presented these last few days, the late, even very late moment at which I got access to the papers, and the impossibility of being in five places at once, do not make this task any easier.

I am permitted, or rather expected, to give my own views on the subject at the conclusion of this meeting and, as a lawyer, I shall certainly feel compelled to plead my own case.

What strikes me is that rights, and particularly children's rights have been discussed by psychologists, educators and philosophers for days, and that a lawyer is the last one to speak; but also the one to get the final word.

We have come, from many countries, to discuss the reasons that make ombudswork for children desirable, if not necessary, to exchange ideas about what we consider ombudswork to be, our approach to it and our experience with it; to discuss what we think these activities, in their various forms, may achieve, and how we see ombudswork as a strategy towards a more satisfactory position for children in society.

Many of you will probably agree that the common goal of ombudswork is to try to improve the social position of children and young people in society, thus promoting a more dignified existence for them.

The reasons why we are here are our general anxiety about and our involvement with children and young people, who, in present-day society, form a vulnerable, easily oppressed group with virtually no political power. Or perhaps, as professor Verhellen started by saying, we are here out of curiosity about the actual situation of children. Or perhaps because of the existing needs in public welfare, as professor Apostel told us.

The central, and new approach at the end of this Century of the Child, is to regard children as people with their own thoughts, wishes, potentials and experiences rather than as not-yet-grown-ups, which has been the dominant view in this century, where the emphasis was often put on dependence, vulnerability and inexperience, or briefly the aspect of "not-yet-hood".
To begin with, some motives for setting up ombudswork for children have been presented. The main ones are the exaggerated egocentricity of adults and the vulnerable position of the child, the ontological fact that a child is a human being, and the developments in the theory on childhood. The latter issue has clearly been expanded in subsequent lectures.
Next, four strategies were provided for achieving this goal :
child advocacy, the study of children, the need for children to join forces and the development of networks; themes which have been further discussed in the workshops. After these discussions a draft proposal was presented.

In the general papers it was explained that certain scientific approaches and social developments have been responsible for regarding and treating children as a separate category, as an object of study and as an object of care in several meanings. Ms. Dasberg, the education historian, emphasized that the position of children has greatly varied in various periods. And also that there are great differences within these periods, and at present, between different cultures, with regard to the ideas people have about children as well as the social and economic significance of children within the family and within society.
As an academic, she has defined the three concepts used here - child, rights and society - as problematic, which will lead to even more difficulties in drawing up uniform standards for well-being, and to such a general formulation of these rights that they offer little to hold on to.

Ms Skolnick has suggested in her lecture that some generally accepted theories within developmental psychology about the characteristics of certain age groups have proved to be not quite so generally valid as had long been assumed. Recent psychological research, for example, has refuted the concept that preschool children are very self-centered, and that schoolchildren are not capable of social contacts. It was demonstrated that children have far greater skills than generally assumed.
Children have too often been studied as being "in a state of development" or in a process of socialization, in short, as future adults. Not enough attention has been paid to children's own realities and experiences to be able to understand them as individuals with their own identity.
In these two lectures the idea emerged that the differences between adults and children is only gradual, and that putting children in a separate category is not dictated by nature, but by adults. This implies that things can be different if adults want them to be, if they are prepared to really listen to children and make an effort to really understand the realities of children.

This, however, has often proved to be a difficult task for adults, is spite of the fact that we have all been children once (although with some people this is hard to believe, in spite of overwhelming evidence).
The question whether professor Apostel's address must be understood as supportive of children's rights, provides us all with some food for thought. In any case, he has granted us the right to "lie" when the well-being of children is at stake and to use children's rights as a political weapon against the authorities.

This morning's programme originally included three examples of practical work of organizations which all cover a range of activities, though in different contexts : Defence for Children International, The Children's Defence Fund in the U.S.A. and Norway's ombudsman. However, at the last moment Mr. Tegmo decided not to discuss the actual work of his organization, Defence for Children, but a much more abstract subject : the creation and possible significance of a Universal Convention of Children's Rights.
The other two speakers have given us an impressive account of the distressing situation of children in their countries, and of the various attempts they undertake to improve the situation of children by advising the public, providing information and putting pressure on the authorities.
The Children's Defence Fund is, and will remain, a private organization on principle, whereas the Ombudsman Bureau in Norway was created by law with a precisely defined task and responsibility. This enhances the bureau's authority with official bodies, while its independence is guaranteed.
Ms Flekkoy rightly observed that this type of activity should become superfluous in the future; we can only agree with her. But unfortunately we shall also have to agree that this remains an illusion for the time being.
In the workshops many generally recognized problems have been discussed, concerning existing institutions for the protection of children; such as having to adjust children to the services offered and having to place children in institutions simply because they are there, and the impossibility, for whatever reason, of placing children according to their needs.

As I cannot possibly mention every detail, I have selected the lectures of Michael Piraino and of Ginny Morrow as examples, for the following two reasons: because they were the only speakers who talked about projects for children in Third-World countries, which were themselves not represented, and because both speeches once again expressed the arrogance of the so-called donor organizations.
A familiar principle is at work here, only the word is "ethnocentric" rather than "adult-centered" now. Here again, it is apparent that many projects for children in developing countries are set up without serious study of what people there consider the most urgent needs; it is also apparent that certain organizations meet only one aspect of those needs : they provide food, or health care, or education; furthermore it turns out that several national or international organizations are active in the same region without knowing of each other's presence, and even less cooperating. They seem to prefer competi-

tion to cooperation. Such is the assistance offered by the rich countries of the West to the most needy, the hundreds of millions of children in developing countries. I take this opportunity to point out once again that in 1959 all member countries of the United Nations unanimously signed the Declaration of Children's Rights, which means that children are the world's responsibility. It also means that the rich countries have assumed the obligation to take care of children in developing countries; in other words, development cooperation to benefit children is not a favour, but an obligation on our part.

The reality that confronts us time and again is harsh, but it seems even more so when there is the pretension to stand up for children while in fact other interests are at stake. This makes it even more important to seek new and better ways of promoting children's interests by listening to them more often and by adapting to their needs. It was good to see, therefore, that many participants showed great interest in the theme "child advocacy", and that they presented a whole range of new initiatives.
While the various organizations may have the same objectives, their methods, organization and context vary widely. These differences are mainly determined by the question whether an organization was set up by government or was a private initiative. The former will have the advantage of being more easily accepted and therefore more influential with policy-makers; but children may distrust them because they are governmental institutions; there is substantial variation in the scope of their powers in comparison to other organizations, the judiciary or policy-makers; there was also a difference between operating independently or as part of a larger organization; in some cases paid professionals were employed, in other cases services were provided by volunteers, who are perhaps less qualified but often win children's confidence because of their freely offered help. Probably the most important ideological distinction is whether organizations deal with children directly, primarily addressing their questions and attempting to materialize their rights on the one hand, or on the other hand whether the organizations also or even primarily adress the responsible adults and deal with their complaints.

A combination of child advocacy and children joining forces can be found in the various children's switchboard projects, both with the objective of making children more self-reliant. On the basis of often mentioned problems, information is provided in various ways, giving the children insight into their own situation. At the Zwolle children's switchboard, the telephone is answered by children themselves. The elementary school "De Buurt", here in Ghent, works with the same objective, in the context of the school.
Children really joining forces was a phenomenon seldom mentioned. The most interesting project - though set up by adults - is the children's shadow municipal council in Waremme, to which topgrade elementary-school children from various districts of the town are elected, so that they become involved in municipal policies. Three times a year important subjects of interest to children will be discussed, such as the environment, leisure and safety; the intention is that their ideas and suggestions will be taken over by the

municipal council.

Much information was provided in the workshop about child research, which is hard to summarize. The general question was how to derive recommendations out of study results. In the first workshop about special problems in the area of children's rights, attention was paid to rights in special situations, such as hospitals and state institutions. A whole range of situations could have been added; one could think of the rights of schoolchildren, for all children now legally required to attent school.

In several groups the question arose to what degree children must be given rights and responsibilities, and to what degree the child's autonomy must be respected. It was pointed out that some major steps children may take, such as leaving school or using drugs, cannot be retraced, given the structure of society. The vulnerable social position of young people was a recurring issue in the discussion.

As has been suggested more than once, an important condition for a better social position for the young is the recognition of their fundamental rights. It must be emphasized that this recognition is not in itself a guarantee of a better position; there are other decisive factors. It is only one precondition: recognition of equal rights implies equality of all and respect for each individual's personal autonomy.

After the Second World War, the emphasis has increasingly been on equal rights for all people, children and adults, women and men, whites and blacks, criminals and law-abiding citizens. All international agreements have included either the equality principle, or a non-discrimination article. These generally valid human rights must in principle apply always and for all, and their scope may only be limited for functional reasons. The other party, usually the authorities, will have to demonstrate why these generally recognized human rights do not apply to children or psychiatric patients or convicts - groups often mentioned together - during a certain period or under certain circumstances. The most important reason to demand that these rights apply to children as well, is also the most simple reason : namely the self-evident fact that children are human beings.

After the signing of the European Treaty and the international treaties between the United Nations, it is no longer a question in the legal sense of the word whether the rights and fundamental freedoms mentioned there apply also to children. Beside these generally recognized human rights, children require special attention on the grounds of their specific needs; that is, right to care, to nurture, to protection, to education and to games and recreation; (rights) as laid down in the Declaration of Children's Rights. Granting children general human rights does not mean that special or preferential rights no longer apply to them. Nor does the fact that children have special rights mean that the generally recognized human rights should not apply on them.

Of course, one can have one's doubts about the significance of granting children these rights, not only because some of the shown internal contradictions - as professor Apostel has pointed out - but also because the formulation of the rights is open to different interpretations. Moreover, since several

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people may exercise the same right, for example, respect for family life and privacy, their rights will be diametrically opposed. What is important then is equality in priciple.

Both in European law and in the law of individual European countries, children are recognized as having equal capacity of rights and their rights are equally weighed against the rights of others. But it remains a question if, and to what degree a child can independently appeal to these material rights, such as the right to respect for his private of family life or the right to freedom of thought, conscience and religion or the right to freedom of speech. Even though children are recognized as having the capacity of rights, in general they are not regarded competent to assert their rights.

It is, however, possible for them, in cases of violation by the authorities of the rights mentioned in the treaty, to file a complaint against these authorities with the European Commission for Human Rights. It will be clear that this is not an obvious step for children. But it is not only a theoretical possibility, as appears from a few dozen cases where complaints by or on behalf of children from various European countries - which are also represented here - have been filed and treated seriously.

Even more than in the case of other court decisions, the individual child may not really benefit, but the result is that certain problems of children are exposed, such as flogging in schools or detaining children, even in prisons, without proper legal procedures; in these cases the government concerned is called to answer before an international forum.

Using this possibility of highest appeal may have considerable consequences, since certain forms of abuse would be publicly exposed and no government appreciates the honour of being requested to answer for its actions in the dock, certainly not before the European Commission in Strasbourg, and least of all on the initiative of a child.

It remains an open question to what a degree these juridically recognized rights are also recognized by any society at large. It is quite clear that the most basic rights of children are in fact still massively violated, in families and in schools, at the job or in the street. Unfortunately, the examples are telling and all too familiar : violation of the physical integrity by physical abuse, incest or other forms of sexual violence, violation of personal privacy by forcing a child to certain thoughts or actions instead of leaving him or her alone, ignoring the right to family protection by intervening in family structures or not permitting families to be reunited, ignoring the right to freedom of speech by imposing censorship, refusal of necessary schooling by providing a limited or not generally accessible education system, from elementary school to higher education, negation of an individual's autonomy by claiming to know best what the child needs, etcetera etcetera.

One major question that arises is why these rights are still violated every day and everywhere, by parents, teachers, social workers and many other adults, including policy-makers; followed by the question how to end or at least restrict these violations. Although most people will agree that children's lives too must be worth living, many adults think and say that children, because of their limited level of development, knowledge and experience cannot judge what is best for them or what will be the consequences of their thoughts and behaviour.

This is the reason why it has been thought necessary to set up separate rules and provisions for children, why children can be forced to go to school whether or not it is best suited to their stage of development, and why intervention in family life takes place on the assumption that it is better for children even if children themselves do not ask for such measures.

The fact that children are not yet grown up is used as an excuse by parents, social workers, teachers, judges and many other adults to follow their own interpretation of the child's interest and to set demands and make decisions that may have far-reaching consequences for children which no one can foresee. This seems to be a question of rationalization on the part of the adults who pretend it is their duty to protect the vulnerable child.

Recognition of the individual identity of the child with her of his ideas, desires and dreams of the future, proves fundamentally unacceptable again and again.

It seems important to find out the underlying causes of this refusal, by parents, teachers, social workers and judges, but also by legislators and other policy-makers. Why are adults, who are in a much stronger position in many respects, so afraid to take children seriously and to grant them a large degree of autonomy ?

It is really because they care or is it because they are afraid to lose power over them ?

Not all adults would consider it obvious that, by taking children seriously, they offer them more opportunities to develop according to their own insights and to develop their own capacities to the the full, while in return they will gain far greater confidence and respect of these children.

By constantly reminding a child of one's greater knowledge, experience and power, one will actually rather lose the authority over the child.

Yet present-day society is still based on many power structures that may victimize children in particular : parental power, medical power, judicial power, legislative power, etcetera etcetera.

Children will usually feel at the mercy of such powers, which they cannot really influence, and therefore they turn away from them. But I would like to give you an example of children's participation in the legislative process, influencing the legislative power.

Several years ago a bill was proposed in the Netherlands regulating the visiting rights after divorce. This bill regulated first and foremost that the visiting rights of the child and the parent are reciprocal. However, further on this reciprocity was not mentioned again, which means that the child cannot appeal to this right, that a child cannot appeal once an arrangement has been made and cannot demand a revision of the existing arrangement. All of these are rights granted to the parent. The child does not need these rights, as long as the legislator assumes that the visiting arrangement is in the child's interest.

During the discussions of the bill, a group of single-parent children - besides many other groups - who have the greatest expertise in this field, let parliament know that they disagreed with the bill. The children were then invited to a hearing of the Parliamentary Committee of Justice of the Upper House and were listened to very seriously. Due to, amongst other things, their arguments and conviction, the bill was withdrawn and the discussion about the desirability of access to the law for children, particularly in the case of divorce, was advanced. If children would be involved in the creation of laws more often, the result would be that fewer laws for the benefit of children as viewed by the government would be accepted.

The paper of Bob Franklin, who unfortunately could not be here, has made it clear that by not granting children the vote, they are denied the right to citizenship, which means that they have no political power and that youth policies and the social position of young people are at the bottom of the political agenda.

The attempts by the authorities to provide young people with a more independent position in society must therefore be characterized as either rather limited in scope, or at the least contradictory, and in recent years even negative. In the Netherlands the age of majority will be lowered from 21 to 18 on 1 January 1988. But young people will still be dependent on their parents for their education and maintenance, although financial independence is a major element of adulthood. Let this be a cautionary remark to the Belgians against introducing such clauses in their current proposals.

Several years ago the age at which girls could marry without dispensation from the government was raised from 16 to 18, in my view an inadmissible violation of the girl's right to autonomy and of the girl's and her parents' right to respect for family life. Also pending is a measure where education is made compulsory until the age of 18 rather than 16, on the grounds of all the usual rationalizations : providing equal opportunities for all young people, fighting youth unemployment and undoubtedly also creating employment for the teaching profession, but that leaves young people completely out of the picture.

This is counterbalanced by the recent proposal to allow young people from the age of 16 to make arrangements about medical treatment.

And the Health Council, an important advisory body to the government, has expressed the opinion that perhaps parents should not be permitted to deny the most essential right of selfdetermination of children, the request for euthanasia.

In criminal law, too, very inconsistent proposals have been made. Given the increased emancipation, young people up to the age of 18 will be tried as much as possible according to the rules of adult criminal proceedings, with more immunities than are currently granted to young people. Yet the age up to which juvenile sanctions can be imposed will be raised to 24, because it is supposed that young people under that age are still in need of protection and education. Young people with jobs are only entitled to general minimum wages from the age of 23, and even this age may be raised. Allowances for school-leavers aged 16 to 18 who cannot find a job were abolished a few years ago, and replaced by child allowances for the parents. Here too, further measures are being prepared

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which will only make it harder for young people to fend for themselves in society.

In our law, which is probably no different from that of other countries, rights granted to certain age categories are very inconsistent, and young people's independent participation in society is made impossible for even longer periods, or, the way professor Verhellen put it : the moratorium on the young is extended considerably.

Although, as has been said before, the judiciary recognizes the general human rights for children, and admits that their rights need be weighed against those of others, usually their parents, children have still not been given a legal possibility to appeal to these rights and to apply to a judge independently. From many sides, even from parliament, there have been urgent requests for this option in recent years, but the government persists in rejecting them. This rejection is based on a variety of not very convincing arguments. One result would be an unacceptable increase in the workload of the judiciary, in particular of the already overburdened juvenile courts; it would become too expensive if children could appeal to certain social rights; it is unnecessary, as the Council for the Protection of Children will promote the interests of children, and children from the age of 12 are heard anyway before decisions of great importance to them are taken; and finally the Minister of Justice said only a year ago that it would not be a good thing if children could apply to the judge independently "because it is very doubtful whether judicial steps would really bring a solution and whether this is the most desirable way to force a solution". What does not seem doubtful to the minister is using judicial decisions made at the request of parents or others to force children to have of to break off certain contacts. Although children are given no access by the legislator, they do receive it in actual judicial practive, which is usually -slightly - better at adapting to social changes than the legislature is. If the child's legal representatives, parents or guardians, who must usually initiate action on behalf of the child, are absent, or unable to act for the child for any other reason, or if the child's conflict is with her or his legal representative, children are enabled to act independently in so-called summary proceedings in emergency cases, when no time is to be lost. Thus even children under 12 of foreign descent, who lived in the Netherlands without their parents, but with relatives, have taken this action against the state when they were in danger of being expelled. And on very few occasions older children have taken action against their parents. This was possible because bringing a conflict to an impartial judge is a generally recognized human right, which should also apply to children.

These developments, wher incompetence was waived in some cases, led me to set up the first Children's Law Centre in Amsterdam, which is also represented here.

Although in judicial practice, solutions can be found for emergency cases, there is much resistance against allowing children to appeal to their rights. Such resistance has of course also long persisted in the case of women. They too were said to be insufficiently rational to promote their own interests, and they too were denied the right to participate in society as citizens. Even in this century there were many discussions (by men only !) about whether women were citizens, and whether women should be eligible for high offices. In the Netherlands the first woman judge was appointed only forty years ago.

The assumption, on the ground of age, sex, race of whatever characteristic, that certain people are irrational and unable to fend for themselves, is itself usually based on highly irrational arguments, if they can be called arguments at all.

It is more like the arrogance of power. I would therefore like to quote professor Apostel again where he says : "Those who say that children have no human rights are suspect".

Even if the resistance is still strong, it is based on irrational and foolish thoughts, and therefore no longer tenable. In this discussion, as in most papers presented here during these days, some glimpses of light are clearly present, as well as leads for setting up various forms of ombudswork in new places, and for expanding and improving it in places where it already functions.

I shall summarize all this as follows.

- It is generally recognized that fundamental human rights should apply to children.
- It is also generally recognized that violation of these rights is unacceptable and may, or rather must be fought.
- The various forms of ombudswork, including the protection of these rights, can no longer be seen as the hobby of a few well-intentioned, doting children's friends.
- Certain forms of ombudswork are widely supported by the public : they can no longer be opposed, not even by those who might like to oppose them for fear of losing their power.
- In several countries ombudswork has already been made possible by the government, which has thus created the opportunity for a fundamental discussion about its decisions and actions pertaining to children.
- In other countries private initiatives have been developed and often accepted and financially supported by the government.
- Individual children or groups of children defending their own rights can no longer be ignored, they must be given room, in many meanings of the word.
- Another argument, which I do not really like to mention, but which can be mentioned and is now the only argument that is politically effective, is the fact that ombudswork may save money.

Instead of building and maintaining expensive institutions to treat young people with disturbances in their development, or to take care of juvenile delinquents, it will certainly be cheaper, more humane and probably also more effective in the long run to promote ombudswork.

From anamneses of many psychiatric patients and adult delinquents we know perfectly well that their problems have generally started at an early age and many can still articulate the injustice once suffered, just because that it has never been solved.

These are the challenges to governments and authorities at all levels, local, national and international.

So what prospects are there for the future and what can we do ?
Several studies, discussed here too, already concentrate on the perceptions and realities of children themselves. One could think of more specialized research into the experiences and realities of specific categories, such as children of migrant workers. Not to find out what problems they present to Western social workers and teachers, but what problems care and education systems present to them.
It would also be helpful to gain more insight into the mechanisms through which children put up with much injustice as a normal part of their upbringing or education; so that it is never brought into the open, although it can seriously disrupt the child's development. More insight will help us to develop information material that is comprehensible to children.
It is also very important to find out which solutions children themselves find for their own problems. The forms of child advocacy that refer to these solutions are most likely to be found worthwhile by children.
If possible, it would also be interesting to find out why many adults have such insuperable objections against communicating with children on an equal basis.
Next, several experiments and projects for child advocacy will have to be evaluated. The following questions must be answered.

- To what extent are they used by the children for whom they were set up ?
- To what extent are they geared to the realities of children ?
- To what extent are children's interests really promoted, in the sense that their position has been improved and they feel they are stronger, both individually and as a group ?
- To what extent have adults been influenced by publications about child advocacy, by information projects or other activities ?

Evaluations will indicate whether the projects must be modified, deepened, expanded or perhaps discontinued.
We would be wrong to think we had found the best way of promoting children's interests without having asked their own advice. When people are dedicated to a cause, they are often too sure that they are always right.

Finally, new strategies will have to be developed for starting new projects and getting them accepted, and also for finding means to continue and expand successful forms of child advocacy.
For the short term, some of the options are : finding recognition and subsidies for activities that originated in private initiatives, or having mandates to existing institutions changed.
Attempts must also be made to integrate ombudswork into certain established organizations and institutions, such as youth welfare organizations, schools or residential institutions.
In the long run, local, regional or national governments will have to be

persuaded to create favourable conditions for setting up ombudswork and to promote these activities as part of general educational, welfare and recreational provisions. For an ombudsman, an ombudsteam or whatever word may be chosen, must never be an exuse for not making other improvements.

Possible examples are school councils and community councils, pupils'charters and clear regulations of legal status, mediators in the various institutions, arbitration boards and regulations for complaints.

Of course it is really absurd that such means should be considered both as control mechanisms and as possible means to improve participation in institutions that are intended for children. It is only natural that children will regard these efforts with some distrust, as distraction, that will only reinforce the system, as some young people suggested yesterday.

They will say : don't make such a fuss, things are really all very simple. But we are adults, destined to devise concessions and strategies, and we shall continue to do so.

At the national level, attempts will have to be made to change laws to the effect that children will be given all possible opportunities to develop their personality, to make their own choices and to live their lives according to their own ideas. Consultative structures must allow children to be heard at levels where people seem alieniated from what motivates children.

It will always be very important to exchange ideas and experiences, to learn from others and to improve and extend one's own work, and if possible to begin to cooperate and to join forces.

The first initiative towards realizing these objectives seems to have been a good start.

The organizers may rightly feel satisfied about the great interest in this congress; they seem to have chosen the right moment. They can also be satisfied that the four ways of action I began by mentioning, child advocacy, study of the child, joining forces and developing networks, have received great support by many, and finally that the approach suggested by them of seeing children as individuals in their own rights has been adopted and expanded.

It will come as no surprise that we have not solved all the problems we have identified; for the time being, the subject remains too unmanageable and too complex for that. A start has been made towards a new approach and new strategies, which are by no means generally accepted yet in society.

I would like to conclude with the evaluation that much information has been passed on, both of a scientific and of a practical nature, but that there has been little discussion of principle, that is, not in the organized sessions, according to the reporters. Getting information has often been the main purpose. But it was good to learn of so many new initiatives that one could get information about.

It is also evident that the concepts ombudswork and children's rights are given very different meanings and very different practical implementations; and that there will always be a tension between recognizing young people as the equals of adults, with all the responsibilities this entails, and leaving them the freedom of the young. It is paradoxical to refuse to see young people as a separate category, and yet to create special provisions for them.

I would also like to point out the danger that the ombudswork concept, which in my view clearly implies the emancipation of young people, might become a new name for an old concept : "child protection", and secondly there is the danger that ombudswork may become a justification of existing power structures rather that a way to continually expose them;

thirdly there is the danger of creating a new organization which must be kept alive for its own sake only,

and finally the danger that we will consider the forms and methods we have found ourselves superior to all others.

When we go home we will bring back with us much information and many new contacts, but also new problems.

Though here at this congress we may all agree about the intentions of various forms of ombudswork, the moment has now come to discuss these intentions, with more insight and conviction, with those who are still hesitant about them.

From the very beginning we have heard that an initiative like this one should have a follow-up.

I can now inform you that the Dutch delegation and the government officials involved, would like to consider organizing a similar congress in, say, four years'time in the Netherlands, preferably in Amsterdam, of course.

We shall be happy to welcome you there.

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The main objective of the present work is to underline the evolution in the concept of children. Indeed, attention should not only be paid to the position of 'children-as-children', but simultaneously and in a more substantial way to the position of 'children-as-human-beings'. It is this idea, that children are above all human beings and not just 'human-beings-to-be', which constitutes the main subject of this reader.

Since the 'invention' of the child, a few centuries ago, and especially in this century, the century of the child, many efforts have been made to promote the position of the child-as-child, as part of a 'distinct' social category. And indeed, in this field, there was and there still is a lot to be done.

Besides, more and more voices are heard in favour of equal treatment of children, because it is believed that children have more or less the same qualities as other people. Indeed, discrimination on the basis of age is highly problematic and not very obvious. Not only the rights of the child, which have set into motion the works of a system aimed at making the international Declaration of the Rights of the Child more binding in its members, but also the universal human rights are highlighted.

In a first part, attention is paid to motives and strategies for human rights for children. These motives for rights of children are discussed from a historical and philosophical point of view. The matter is also considered from the viewpoint of developmental psychology. Strategies, however, are discussed on the basis of exemplary cases.

Most of the texts in the second part are inspired by four basic principles which can be found in the strategies for children's rights. More attention is paid to child-advocacy, to the study of the child, the self-organization of children, to the promotion of network development and to specific situations concerning the rights of children. The reports which were published testify to the more than common interest in ombudswork for children.

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